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UNITED STATES-CANADA FREE TRADE AGREEMENT—1988

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

MARCH 17, 1988

(Part 1 of 3)

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UNITED STATES-CANADA FREE TRADE AGREEMENT—1988

THURSDAY, MARCH 17, 1988

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:13 a.m. in room SD-215, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman) presiding.

Present: Senators Bentsen, Moynihan, Baucus, Bradley, Mitchell, Riegle, Rockefeller, Daschle, Packwood, Danforth, Chafee, Heinz, Wallop and Durenberger.

[Senators prepared statements appear in the appendix.]

[The press release announcing the hearing follows:]

[Press Release No. H-7, February 23, 1988]

BENTSEN ANNOUNCES FINANCE COMMITTEE HEARING ON UNITED STATES-CANADA FREE TRADE AGREEMENT LEGISLATION

WASHINGTON, DC.—Senator Lloyd Bentsen (D., Texas), Chairman, announced Tuesday that the Committee on Finance will hold a full committee hearing to address legislation needed to implement the United States-Canada Free Trade Agreement.

The hearing is scheduled for Thursday, March 17, 1988 at 10 a.m. in room SD-215 in the Dirksen Senate Office Building.

Testifying at the hearing will be Treasury Secretary James A. Baker, III and U.S. Trade Representative Clayton Yeutter. Announcement of the hearing follows agreement last week on a schedule to consider the proposed trade pact. The hearing is the first official step toward drafting implementing legislation in consultation with the administration.

Bentsen said, "This first hearing will afford the administration an opportunity to present the agreement and will give Committee members a chance to discuss it openly. The agreement is lengthy and complex, and I expect members to have many questions for the administration. This is an historic undertaking that requires intense, bipartisan consideration shared equally by Congress and the administration."

Bentsen also said, "The private sector will play a major role as the agreement is considered." Accordingly, the Committee is requesting written comments from the private sector at this time. Additional hearings to allow testimony from the private sector will be announced over the next several weeks.

OPENING STATEMENT OF HON. LLOYD BENTSEN, A U.S. SENATOR FROM THE STATE OF TEXAS, CHAIRMAN, SENATE FINANCE COMMITTEE

The CHAIRMAN. This hearing will come to order. Please cease conversation and take your seats.

This is the first hearing of the Committee with respect to the Canadian free trade agreement; and because this is an executive agreement, it is not going to take the normal two-thirds vote that you would have under a treaty. It will take a simple majority.

The member of this Committee have long been urging the United States to adopt a free trade agreement with Canada, but we have also felt since the very beginning of these negotiations that it must be of mutual benefit to both countries.

Let me quote from the Committee report on the Trade Act of 1974:

> Section 612 urges the President to seek an agreement that will establish or move toward the establishment of a free trade area with Canada. The Committee strongly feels, however, that any such agreement must provide free trade in both directions.

So, we are pleased to see the administration move forward with the Canadian trade agreement. In fact, when the talks seemed stalled back in 1986, I led a delegation of Finance Committee members who travelled to Ottawa to meet with the Prime Minister—they did it on their own initiative, frankly without any encouragement from the administration—and met with the members of Parliament. That trip in 1986 included Senator Matsunaga—who unfortunately is ill today—the Chairman of the International Trade Subcommittee, and Senator Chafee and Senator Baucus.

We told the Prime Minister then that if he would move forward with such an agreement—and once again, the key point was that it had to be mutually beneficial to both countries—that he would have great support within the United States Senate.

We still have two basic questions that need to be explored—obviously, first should we approve the agreement—and that will depend, I believe, on whether it is a good agreement for both sides, especially since it was obvious from the very beginning that Canada had a longer way to go in reducing trade barriers than did the United States.

I see Ambassador Murphy back there, who was very much involved in trying to get this back more to a level playing field.

It is obvious, I think, that the administration has taken some risks in this regard. For example, by proposing in this agreement to do away with the United States law restricting the importation of enriched uranium, they may have lost the votes of some of the Senators who come from uranium producing States.

Now, the administration will have its work cut out for it to show that Canada is reciprocating with a similar reduction in its import barriers, that we really have a fair trade on this one.

A second question we will be looking at is: How should we implement the agreement? Obviously, you are going to have to have some changes in the laws; and some changes in law may not be absolutely necessary, but they may be important from the standpoint of our national interest.

We will want to include these so long as they are not inconsistent with the agreement and they are appropriate to carrying out its purpose.

Framing that kind of legislation is going to require some very close consultation with the administration, and that is what we have accomplished in the agreement between the administration and the leadership in the Senate. The administration has agreed to accept the provisions worked out in that consultation process if they are consistent with the agreement and its implementation, if they are appropriate to carry out the fundamental purposes. That is the way it is stated in that letter of agreement.

We are certainly willing to meet the administration halfway. We have been encouraging such agreements for nearly 15 years, and we have gone out of our way to try to keep this agreement on track. Hopefully now we can work together to accomplish what we think is best for our country.

I would like to say to my colleagues that I know some of you feel very strongly about making some statements here, and I want to recognize you for that purpose. Because of the time limitations, I hope that you will keep them fairly brief and we will put your statements in their entirety in the record. I now recognize the ranking senior Senator, Senator Packwood.

OPENING STATEMENT OF HON. BOB PACKWOOD, A U.S. SENATOR FROM THE STATE OF OREGON

Senator **Packwood**. Following your admonition, Mr. Chairman, I will make it quite brief. I hope to be able to support this agreement. I intend to support it.

Something would have to dramatically fall apart for me not to support it; but on a bigger consideration than that, it would be an absolute crime if we and Canada cannot work out an agreement. We are two major industrial countries with an immense border, common interests, common language.

If we cannot work out an agreement with Canada, pointing toward what we have been saying the rest of the world ought to be moving toward—if we can't prove it here with the one country that we have the closest relations with—we cannot prove it elsewhere.

And that is why I think it would be a tragedy for this country, for Canada, for the Uruguay Round, and for the world if we cannot succeed in this endeavor. Thank you, Mr. Chairman.

The **Chairman**. Thank you. Senator Moynihan.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator **Moynihan**. Mr. Chairman, I follow your admonition and join Senator Packwood in stating that I surely intend to support this agreement. It is the kind of large broad-scale trade understanding we should be seeking in the rest of the world and ought to be the beginning of such an effort.

It is so commonly observed that there is no other country in the world as important to us as Canada. Even then, I sometimes think we don't know how important it is. We export more—the United States exports more—to the Province of Ontario than it does to Japan. Thank you, Mr. Chairman.

The **Chairman**. Thank you. As I look at this arrival list, I see Senator Chafee is next. Would you have any comments?

OPENING STATEMENT OF HON. JOHN H. CHAFEE, A U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator **Chafee**. Thank you, Mr. Chairman. I also intend to support this agreement. I want to congratulate the administration on its negotiations. This is an effort that, if approved, will send a powerful message to the rest of the world where protectionism is all too evident. As has been mentioned, Canada is our largest export market.

Nonetheless, it does maintain currently high tariffs and a complex array of provincial and Federal nontariff barriers that have been of concern to us, and a huge market awaits us there. And also, our consumers will benefit from the import and availability of Canadian products.

I am just so pleased, Mr. Chairman, that we are moving forward with this, and I think it provides great potential for our Nation and indeed for the rest of the world. I want to thank you.

The **CHAIRMAN**. Thank you. Senator Danforth.

OPENING STATEMENT OF HON. JOHN C. DANFORTH, A U.S. SENATOR FROM THE STATE OF MISSOURI

Senator **DANFORTH**. Mr. Chairman, I congratulate the administration on completing this tariff elimination agreement. The elimination of the tariffs is, of course, a worthy objective.

We have seen in our trading relations with other countries that tariff elimination by itself does not necessarily create a level playing field in international trade. I will look at this agreement very carefully. I am not one who has jumped to a conclusion, one way or another.

The questions I will raise have to do with whether the elimination of tariffs goes far enough in creating fairness for the people of our country.

For example, if tariffs are eliminated, but at the same time the Canadians have very high subsidies for various commodities that they produce, those subsidies become relatively more important because of the elimination of tariffs.

Second, this agreement does not eliminate presently existing investment restrictions. As we know, we don't restrict investments in the United States, but the Canadians have a network of investment restrictions. What can be done, if anything, in order to create fairness in this regard?

And the same is true with respect to the cultural sovereignty. We have had in the State of Missouri some one dozen newspapers that have been purchased by Canadians in recent times. My understanding is that it would not be possible—maybe I am wrong—for Americans to purchase newspapers in Canada. Now, how is that fair?

And how does this agreement get to that problem in any way at all?

So, my questions, Mr. Chairman, will have to do with whether or not this is truly what it is represented as being a free trade agreement; or whether it is simply a tariff reduction bill which, as we have seen with other countries, does not establish fairness in international trade.

The **CHAIRMAN**. Thank you, Senator Danforth. Senator Mitchell.

OPENING STATEMENT OF HON. GEORGE J. MITCHELL, A U.S. SENATOR FROM THE STATE OF MAINE

Senator MITCHELL. Mr. Chairman, I thank you, and I would like to pursue the statements made by Senator Danforth. This is billed as a free trade agreement; so there is a natural inclination of this Committee and Congress to approve it.

The agreement would phase out all tariffs between the United States and Canada. So, in a sense, it does move toward free trade; but there are many other provisions which preserve and validate trade-restrictive, trade-distorting, and trade-protectionist policies now in effect on both sides. It is inaccurate to call this a free trade agreement.

More accurately, it is a trade agreement where two nations have reached a settlement on reducing some tariffs and agreed not to reach a settlement on many other issues; and it is those which concern me.

Now, Mr. Chairman, the people of Maine have close, economic, social, and cultural ties to Canada; but our two economies are different. We have varying exchange rates, unequal government intervention, dissimilar regulations. And so, there have been a number of disputes in recent years.

Several Maine industries have been involved in countervailing duty and antidumping cases. We are all well aware of the differences in the Canadian economy and the much more active role their government plays in the economy through grant and subsidy programs.

Let me give just a couple of examples.

As Mr. Yeutter knows, we have met on several occasions—the entire Maine delegation the Maine potato industry—asking for true free trade, asking that Canada be asked to remove some of the 32 subsidies it has for its potato industry that Canadian provinces be asked to remove their laws which have the effect of prohibiting Maine potatoes from being shipped into Canada.

None of these objectives were achieved. So, the truth is that this agreement doesn't resolve those problems. So, here is the situation right now.

Canada now subsidizes its potato industry. The United States does not. This agreement doesn't change that. Canada has laws which effectively prohibit Maine potatoes from being shipping into Canada. The United States has no comparable laws. This agreement doesn't change that.

Both countries have tariffs on potatoes coming into their respective nations. This agreement eliminates those tariffs. That helps Canadian farmers, but it is meaningless to Maine farmers because other Canadian laws have the effect of keeping their potatoes out of Canada.

Will you gentlemen today explain to me and to Maine potato farmers why this agreement is good for them? And if the answer is that it isn't good for them, what do you propose to do about it?

Now, a similar situation exists in the fishing industry. The Canadian government is actively involved in promoting exports through grants and subsidies and this agreement preserves those Canadian subsidies. In addition, this agreement specifically preserves eastern

Canadian provincial laws which permit export bans of fish vital to U.S. processors, even though similar laws in western Canada have already been held in violation of the General Agreement on Tariff and Trade.

The agreement also does not address intellectual property issues and permits Canada to continue to protect many industries in the name of cultural sovereignty.

Now, we are all told that this agreement is in the national interest, and we should not get hung up on the interests of individual industries in our State; but is not the national interest the accumulation of individual interests?

Mr. Chairman, I think there is a superficial appeal in removing tariffs where Canadian tariffs are higher. We have to look beyond that appeal and ask. Is this in our national interest to reach agreement with a nation which is a very different economic system from our and agreement which permits the continuance of extensive and pervasive subsidies at every level of their economy while doing nothing with respect to American industries that don't have such subsidies in this country?

I look forward to hearing from the Secretary and the Ambassador of their views on these questions before I make a decision on how I will vote on this agreement.

The CHAIRMAN. Thank you. Senator Rockefeller.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER, IV, A U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator ROCKEFELLER. Thank you, Mr. Chairman. I have given a great deal of thought to this treaty, and I want the Chairman to know that I come at it with an open mind.

I support the principles underlying the treaty, and I understand that there can be great economic benefit to both countries from this treaty, maybe 14,000 jobs, $25 billion over a 5-year period. But Mr. Chairman, I am constrained, as in the case of Senator Mitchell, to put down a marker on two subjects.

The first one is coal. Before I can fully support a free trade agreement, I must be sure that it will not hurt coal. The effect of this agreement on the coal industry—a sector which is not in good shape—is not encouraging.

I have four questions that I need to have answered.

First, can Canadian utilities produce electricity at lower costs than American utilities can because of the Canadian Government's subsidies and other advantageous policies?

Second, does the fact that Canadian utilities are Crown Corporations give them an unfair advantage because of their special relationship with the government, freedom from tax burdens, and, ultimately, government backing and financial guarantees?

Third, do differing environmental regulations in the two countries result in an advantage for the Canadian utilities that our utilities obviously cannot deal with?

And, finally, does the coal industry in Canada have favorable government tax regulatory policies that damage American coal's capacity to compete?

Those four are of serious concern to me. The other marker that I would put down, Mr. Chairman, concerns the natural gas industry. My question here is: Are there different regulatory regimes in both countries, different treatment in this country of domestic gas versus Canadian imports, and incentives offered by the national and provincial government in Canada to the natural gas industry?

Having said that, I do like the underlying principles of the FTA. I know that Canada is our most important trading partner. We in West Virginia greatly benefit from our trade with Canada, but my two markers are nevertheless, of great importance to me and to my State. I will be watching this very closely. I thank the Chairman.

The **Chairman**. Thank you. Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator **Baucus**. Thank you, Mr. Chairman. It is obvious from statements made that an agreement with Canada to reduce tariffs and to increase trade is in the country's best interest.

Senator Moynihan pointed out, as have other Senators this morning, that each country trades more with the other than other any country in the world. In fact, I think the total amount of goods traded between the United States and Canada is about $130 billion. The U.S. trades more with Ontario than the United States trades with the entire country of Japan. All of us want to support this agreement. That is clear. But I think it is equally clear that this free trade agreement is not a true free trade agreement. It is rather a glorified tariff reduction agreement, with some other provisions which tend to reduce the barriers to trade.

The difficulty, however, is that there are many other barriers to trade that this agreement does not address. The most important of which are subsidies.

This agreement would be a far better agreement if it did address subsidies in a very meaningful way. It does not. It establishes ongoing negotiations, but there is no enforcement mechanism to really get at lowering each country's subsidies.

And that is particularly worrisome for Americans because Canada subsidizes its economy much more than we Americans subsidize ours.

In fact, the CRS issued a report pointing out that Canada subsidizes its economy at least twice as much as does the United States. The OECD has a index table with different indices to indicate the degree to which countries subsidize. For Canada, the figure is 2.54 percent of GNP and for the United States it is .43 percent. In other words, on a per capita basis, Canada subsidizes five times more than do we Americans.

Now, that disparity is particularly worrisome because the agreement tends to restrict the United States' ability to countervail against certain future Canadian subsidies.

And this is the primary fault—the primary defect—of the agreement as it now stands. I think still there is time to remedy that.

If the implementing language is written in a way to address those problems, it will be a much better agreement, an agreement that we all can support.

Now, there are other areas as well. Senator Mitchell has mentioned some; Senator Rockefeller has mentioned some. I have some others, too, with respect to wheat. There is a long list.

But let's salvage the agreement. Let's try to find ways to pass the agreement. It is going to mean near superhuman effort to draft implementing legislation that addresses these problems, but we can do it.

And I strongly urge all of us to make that effort so that we can pass an agreement.

The CHAIRMAN. Thank you, Senator. Senator Durenberger.

OPENING STATEMENT OF HON. DAVE DURENBERGER, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator DURENBERGER. Thank you, Mr. Chairman. I think it is helpful that the members have taken a few minutes to share their concerns, because our concerns today and our questions point out the dilemma that many of us face in our States.

When you have an up or down decision, and you can't amend it, and you can't get your own way, and you can't get 51 percent of the folks to try to agree to your modification, it gets a little hard to do business. You just have to do what is in the best interests of the constituency you represent.

I hope Jay gets all the answers to his questions. I think it will be very interesting to find out what people in Canada have to say about the SO2 that gets sent up from the United States into Canada free of charge and without tariff barriers; but I think he needs to ask the question.

I think those kinds of issues are going to put a lot of what we are trying to accomplish in perspective. In my constituency in Minnesota, those who are adding value to human resources are doing pretty good business in Canada. In medical technology, we are the leader in the world. We have all kinds of creative inventiveness coming out of a very productive State, which benefits from markets in Canada.

And they just love to see the thrust of this agreement.

We are a very energy-dependent State, and to some degree you have accomplished a great deal here in making us more energy secure, vis-a-vis our primary source of supply in Canada. That is important.

But like a lot of members of this committee—and George has begun to express this—I am concerned that one area is totally untouched: Agriculture.

My State is, was, and always will be an agricultural State, and there is nothing in this agreement that addresses the effort in the last 10 years of the Canadians to drive a dominant American agricultural interest in their country out of the Canadian market. Whether it is taking advantage of the relative difference in price of currency or whatever, we are moving out of their market and we are being moved out of their markets. Potatoes, wheat, and corn are all losing out.

We have talked about all of these issues in the past. I wouldn't raise it as a parochial matter, but I would raise it in this context because, ever since the success of concluding this agreement, we have heard from a lot of other countries that see this agreement as a model.

And so as you go to GATT to try to establish other relationships with other countries, what you have done or not done by way of reducing barriers in agriculture in this agreement means a whale of a lot.

I can't read French, which fortunately in this book is upside down, but I can read English. The Canadians are promoting some parts of this agreement. "The Canada-U.S. Free Trade Agreement and Agriculture" is one. In there, of course, they tell the Canadians you ought to be for this agreement because of all of the wonderful things it does for Canadian agriculture.

It promises them big pieces of the pasta market. They point out that after 3 years "the decrease in the U.S. tariff on Canola oil will more than offset the removal of the Western Grain Transportation Act benefits to the west coast ports."

In other words, the little concession they gave us on the western port shipment, they are saying, we are going to cover in 3 years with a decrease in the U.S. tariff on Canola oil. And, they emphasize it will increase the potential markets for sale of milling and pasta wheat to the United States.

So, all of my farmers have a copy of this agreement, and some of them can also read French. (Laughter)

So, I hope during the course of this discussion, we get at all of these issues. Mr. Chairman, another thing I want to thank you for is the opportunity we will have after these hearings to propose questions to the administration. I appreciate the time we will have before markup to review the answers thoroughly. And I compliment you for that process.

The CHAIRMAN. Thank you. Senator Heinz.

OPENING STATEMENT OF HON. JOHN HEINZ, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator HEINZ. Mr. Chairman, thank you. I want to simply state what my position on the Canadian free trade agreement is. It is undecided. There will be, I am sure, a number of interesting and compelling points made, as Dave Durenberger has done, about sectoral issues and concerns; but those are not my principal interests.

I have not taken a final position on the free trade agreement for three reasons, and I might say that, while in principle, I would unhesitatingly support a genuine, true free trade agreement, I think what Max Baucus has said, that this is a glorified tariff reduction measure, is not a inaccurate characterization.

Nonetheless, I would like to find a way to support this legislation if I can, as I have supported other fast track legislation that has come out of this Committee; but my support is very likely going to depend on three things.

They are willingness, determination, and commitment. Willingness of the administration to use the fast track process as it was intended, that is, in a truly consultative manner designed to produce the most thoroughly considered and carefully crafted implementing legislation.

The determination of the administration to prevent the trade law dispute settlement mechanism from becoming a device that will erode our sovereignty, reduce the credibility of our trade laws and enforcement mechanisms, and further erode market discipline by giving the Canadians a free ride on their subsidies policies.

Third, the commitment of the administration to a mechanism that will guarantee further progress in eliminating the barriers between our countries that this agreement grandfathers. The FTA does that with respect to dumping and countervailing duty laws, but does not do it elsewhere.

To the extent that we have legitimized those continuing barriers, this agreement makes it harder to eliminate them in the future, rather than easier.

I do not believe that these are insoluble problems, but they are, in my judgment, critical ones; and I look forward to working with our colleagues on the Committee, Mr. Chairman, and with Secretary Baker and Ambassador Yeutter in addressing them. I hope we can succeed in doing so.

The CHAIRMAN. Thank you. Senator Riegle.

OPENING STATEMENT OF HON. DONALD W. RIEGLE, JR., A U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator RIEGLE. Thank you, Mr. Chairman. I think it is important to note that this Committee over the last year has been very involved in other complex issues. We had the trade bill, which is now in conference. It took a long time; it is a very significant piece of legislation. We are very close to completing work on that; it is not quite finished.

We also spent a lot of time on the Catastrophic Health Insurance Bill, a major issue; and that has taken a lot of time. That is also coming to conclusion.

And of course, there have been a host of other issues. In the Banking Committee, we have been dealing with the aftermath of the market crash in October and financial deregulation issues and other things.

I say that because I think the Canadian-American trade agreement is now coming into focus in a way that it has not to the same degree earlier because our attention has been on these other issues.

I think that now that it comes into a tight focus, and as I listen to my colleagues around the table, there are a number of serious concerns and reservations that are being expressed. Some are very specific to sectors of the economy and sectors of our country, and I think that is entirely appropriate because we are a country, in a sense, of all of our parts. So, each area I think does have to be considered in terms of whether the impact here is a positive or a negative one.

And that is certainly true with respect to my region of the country, an industrially based area. Michigan does an enormous volume of trade with Canada. In fact, our trade just as a State with Canada is larger than that of any other State and more than that of Japan and the United Kingdom combined.

So, we have an enormous degree of interest in what is happening here.

Now, with respect to the bilateral trade deficit that we had with Canada last year of roughly $13 billion, as nearly as I can determine—some of the categories are not laid out specifically but if you take the part of that bilateral trade deficit that relates to cars and then try to factor in addition to that automobile parts, trucks, and related items—as nearly as one can determine, over half the deficit is in the area of the automobile and truck activity.

And a very substantial part of that relates, of course, to the upper midwest of our country. The industrial base, however, relates very importantly to things going on in Pennsylvania—Senator Heinz's home State—to West Virginia and literally every State in the country, because in very high valued added products, like automobiles and trucks, the production and the output of citizens in States coast to coast is involved.

So, what happens in that area is very important, and I must say to you that I have very serious reservations about that section of the agreement. And I have made these to you both in letters that we have exchanged over a period of time, Mr. Secretary and Mr. Ambassador.

In those letters, I have attempted to bring your attention to two issues: the rule of origin issue, which is a long-standing, difficult issue. I don't think it was negotiated sufficiently, and I think it is a problem. I am frank to say I haven't gotten a good answer back as to why we fell as short as we did in that area.

The second is duty remission. This is a critical issue. We are not talking about an underdeveloped country in the case of Canada. Canada is a very well-developed production-based country, and the fact that they propose continuing the duty remission program several years into the future, which is really a blatant inequity, I think is just wrong. There is no justification for it whatsoever, especially when Canada is running an enormous surplus in that area of the trade account as it is.

I think the negotiation on our side in that area was weak, and I don't think there is really any excuse for it.

I would like to think that there is a way to do something about it at this point, especially if we are going to live or attempt to live with what we say the philosophy of the legislation as a whole is; and that is to really level out this playing field.

Things that stick out as clear inequities and things that tilt the balance are just not sound.

Now, in the automobile part supplier area, there are an awful lot of people in this country that make their living that way. An awful lot of the private sector activity and the jobs that go with it are at stake in terms of whether or not we can make those adjustments.

I have serious reservations based on that. I would like to be able to work them out, to say to you, Mr. Ambassador, that if we can work on this—and I don't mean just talk past each other and drill a tunnel under a mountain where we miss each other—but if we work on this, I think we can get somewhere.

But I think it would be a mistake for you to assume that this is going to get bulldozed through here if we don't find a way to resolve some of these items, that I think the negotiations themselves have not sufficiently resolved.

If I may just say one other thing in 10 seconds, and that is I want to thank Secretary Baker for his great help on the educational trust issue that we were discussing before this Committee yesterday. He has been very helpful, as has his staff; and I think that is a very good measure of cooperation. Maybe we can do the same on the trade agreement.

The CHAIRMAN. Mr. Secretary, Mr. Ambassador, what you have heard is an outpouring of concern for the economic self-interest of our country, and no one should make an apology for that. That is our responsibility.

But in saying that, we also have to look at it in the broad perspective of what is in the overall economic self-interest of our country. These are two countries with comparable wage scales and, in spite of what the Canadians say, comparable cultural backgrounds, at least as close as any other country I know to our own.

If we can't work out our differences and really have an example for the rest of the world—where we might do some bilateral agreements with other countries because of the long time it takes for the Uruguay Round or the multilateral trade agreements—if we can't do that, it is really an indictment of both countries.

We have a tough task ahead of us, and I appreciate the fact the administration is entering into the consulting process with us and trying to achieve these objectives.

We have an agreement with over 1,500 pages. So, we have met with the administration and came to an agreement this morning, and there is no way that we can probe into every one of those questions in the time limitations we have in these hearings, but the members will present questions—written questions—by the end of next week. Now, in turn, the administration will do their best to answer those questions by April 18.

And then it would be my hope that the week of April 25 that we could proceed to markup, and then we would have our conference and have our recommendations on that piece of legislation prior to June 1.

So, we have a very tough schedule to try to meet. Mr. Secretary, Mr. Ambassador, we are very pleased to have you. Mr. Secretary, if you would proceed with any comments you have.

STATEMENT OF HON. JAMES A. BAKER, III, SECRETARY, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Secretary BAKER. Mr. Chairman, I will do so. Thank you very much. I will have just a brief statement. First of all, let me say that we are very pleased that we have been able to work out arrangements with this committee and the relevant committee on the House side respecting process and procedure.

We think that is a major step in the right direction in terms of ultimatly securing congressional approval of what we think is a very good agreement.

I want to second, Mr. Chairman, what you just said in your summing up, if I might. Respecting the importance of keeping our eye on the overall national economic interest, that is what we had to keep in mind in negotiating this agreement.

We think, obviously, that this agreement is clearly in the overall national economic interest or we wouldn't have negotiated it and sent it up here for congressional approval.

Let me, if I might, describe very briefly the major merits of the agreement as we see it. We think it is substantially more, if I may say so, Mr. Chairman, than simply a tariff reduction agreement. We think that the United States and Canada today have a rare opportunity, one that we might not confront again if we are unsuccessful, to strengthen the special relationship between these two countries and to reduce substantially the barriers to our bilateral trade and, if I may say so, to our bilateral investment.

If we can rise to this occasion, Mr. Chairman, we will leave a lasting legacy for future generations of Americans. If we do not rise to the occasion, we will have no other opportunity, in my opinion, to conclude such an agreement for many years to come, if at all.

And in the words of Senator Packwood a few minutes ago, "If we can't do this with Canada, we won't be able to do it elsewhere, whether it is multilateral or bilateral." It is the strongly held view, Mr. Chairman, of the administration that we therefore should not let this opportunity slip from our grasp.

This agreement dramatically reduces barriers and it establishes rules of conduct for a broad rang of economic activities. It goes substantially further than the simple reduction of tariffs.

As a result, it will mean greater investment opportunities for investors, larger markets and increased plant efficiency for producers, higher paying jobs for workers, and lower priced but higher quality goods for American consumers. This is true as well for Canadians.

Thus, by opening our markets, our economies will prosper, and our goods will become more competitive internationally.

Mr. Chairman, let me address the three major reasons why I believe that this agreement is in the national economic interest, and I will do so very briefly.

First, this agreement can and should strengthen not only the GATT but the entire world trading system. The Uruguay Round, in which Ambassador Yeutter is now engaged, is an important but long-range effort at trade liberalization.

In the meantime, this free trade agreement reflects productive Government activism that should invigorate the historical congressional notion of free trade. It should reawaken businesses and consumers to the gains of open trade, and it should present a possible basis for arrangement with other countries.

The free trade agreement breaks new ground, Mr. Chairman, by defining rules in the area of services, in the area of investment, and in the area of technology, while respecting national sovereignty.

This accord includes the United States' first bilateral agreement covering the financial services sector, and it recognizes the close link between trade and investment in our modern world.

This breakthrough should provide the basis for GATT provisions in these areas, and it should offer the means by which our two countries can in the future negotiate on emerging issues. This agreement is part of a trade policy strategy that should reassure other nations that recognize the value of a more open world economy.

This strategy is also consistent with domestic political imperatives. Pressure to adjust United States trade policy must not be allowed to take a negative and unilateral form.

Trade liberalization is achievable and we will prosper from it. We can demonstrate a hard-nosed Yankee trader realism about bargaining. If all nations aren't ready, the United States is willing to begin with those that are and build on that success.

By demonstrating that a bilateral free trade are is a viable option, we can give the next administration an opportunity to set trade policy on a creative, positive, and pragmatic international course. Such an occurrence, Mr. Chairman, would be in the best traditions of this Committee.

In conclusion, let me commend you, Mr. Chairman, and the staff of the Committee for the timeliness of today's hearing. By continuing the process for approving the agreement and enacting enabling legislation begun last month in the Ways and Means Committee, I think we will have ample time to work together in a truly bipartisan effort to fashion and to achieve our goal of creating the largest geographical free trade zone in the world. Thank you, Mr. Chairman.

[The prepared statement of Secretary Baker appears in the appendix.]

The CHAIRMAN. Thank you. Ambassador Yeutter.

STATEMENT OF HON. CLAYTON YEUTTER, U.S. TRADE REPRESENTATIVE, WASHINGTON, DC, ACCOMPANIED BY ROBERT A. REINSTEIN, DIRECTOR, ENERGY AND NATURAL RESOURCES, CHIP ROH, ASSOCIATE GENERAL COUNSEL, U.S. TRADE REPRESENTATIVE, AND ANN M. VENEMAN, ASSOCIATE ADMINISTRATOR, FOREIGN AGRICULTURAL SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, DC

Ambassador YEUTTER. Thank you, Mr. Chairman. It is a pleasure to join Secretary Baker in discussing these very critical issues with all of you. I will make this statement very brief, too, Mr. Chairman, and provide some materials for the record, if I may, that include not only my statement but a summary of the agreement and some other matters.

The CHAIRMAN. All right. Without objection, that will be done.

Ambassador YEUTTER. I would just like to comment on a number of issues very rapidly. The first one would be that, if the test of this Committee and of the Congress for this agreement is whether or not it is Utopia, then you should reject it because it is not Utopia.

We didn't ever expect it to be Utopia; it is unlikely we will ever negotiate a bilateral free trade arrangement that is utopian. That is just not the real world.

If your test is that it must be a true free trade arrangement, as some of you used that term this morning, then you should also reject it because it is not a true free trade arrangement. It is unlikely that we will ever in history negotiate a true free trade arrangement with any major trading partner, though not impossible to do so.

It seems to me that those are not sensible tests, and I am sure that everybody around this table recognizes that.

The test that should be applied to this agreement is, one, whether or not it is in the overall national economic interest—as some of you have stated it this morning—and, two, as a corollary-test, whether this country is better off with this agreement than without it.

The test should be: Is the United States of America better off if this agreement goes into effect in January 1989 than it would be if it did not go into effect in January 1989?

Gentlemen, I must say that, if I applied my own criteria to that agreement from having been immersed in it for a substantial period, that answer becomes a very easy one. There is no one—no one—in this country who can legitimately conclude that this country will be worse off with this agreement than without it—no one—because that is not a close case. The case is that this country will be a whole lot better off with this agreement than without it for a whole variety of reasons.

If I may comment on just three or four of the elements? There has been some discussion this morning about the tariff portions of the agreement and some indication that this is just a tariff agreement plus. I happen to think it would be worthwhile if it were only a tariff agreement.

That is really all that is required for it to qualify as a free trade arrangement under the GATT rules. So, having a total phase-out of all tariffs qualifies it under the GATT and is a major step forward and is clearly in the economic interest of the United States because Canadian tariffs are, on the average, more than double U.S. tariffs.

So, that is a significant advantage and it will certainly help to generate economic activity between the two countries, and that will be beneficial to both.

But there are some other elements that have received little attention thus far in the preliminary comments by this Committee that, in my judgment, are incredibly important in evaluating this arrangement.

One of those is energy. I testified yesterday morning, Mr. Chairman, to the House Foreign Affairs Committee; and one of your colleagues in the House said to me yesterday morning that his view was that, as we look back on this agreement 50 years from now, we will have concluded that the most important part of the agreement was the energy provisions.

I suspect he might be right. That is very perceptive because this agreement provides us security of access to Canadian energy supplies which are immense and have great potential value to this country, and national treatment in terms of pricing of those energy supplies, which could be immensely important to this country over time.

We must recognize that energy is a major input to a lot of companies in this country—thousands of companies—including some of those that Senator Riegle represents, Senator Heinz, and others.

The benefits in the energy area can be of tremendous importance to our manufacturing sector over the next several decades.

A third one that has had no mention this morning thus far is services. This is the first time that we have had a major agreement on services with anyone—bilaterally or multilaterally. This one applies to more than 150 different service sectors and clearly gives us some opportunities in the future that are not present today.

That is very important, and that is far beyond tariffs.

The fourth one, for which Secretary Baker and his colleagues at Treasury deserve a great of credit, are the adjustments in the investment rules of the Government of Canada. There were major impediments to the flow of investment from our side of the border to that side of the border; those are not totally eliminated in this agreement, but Secretary Baker and his associates made tremendous progress in that area.

Now, I have just a couple of comments—and I am sorry Senator Durenberger isn't here—but he had the little booklet that indicated the benefits to Canada on the agricultural scene. I would just simply say that both countries can write bulletins that evidence the benefits of the agreement, and both countries can appropriately do so because both have benefited in a great many areas; and that is the way an agreement should turn out.

And one cannot expect our Canadian colleagues to articulate in their bulletins precisely what is disadvantageous to them in this agreement.

Now, just one final comment, and that relates to Senator Mitchell's earlier commentary with respect to the national interest being really an accumulation of individual interests; and that is true.

All of you have to make that evaluation, as you judge this agreement and everything else you do. We must do likewise in the administration. All I would ask that the members of this Committee do, and that the Members of Congress do, is accumulate them all.

Let's not just accumulate those who find fault. We have heard most of those arguments this morning, but let's recognize that there are a lot of people who have positive vibes with respect to this agreement.

Here they are, Mr. Chairman. They are in that book. This is the number of resolutions and communications that we have had from American groups and entities that have declared their support for the United States-Canada agreement thus far.

So, it isn't that you are hearing nothing but negatives. I hope some of these people are communicating with you as well as with us. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Ambassador.

[The prepared statement of Ambassador Yeutter and related materials appear in the appendix.]

The CHAIRMAN. You know, the only free trade agreement that we have concluded prior to this is the one with the Israelis; and in that one, an agreement was made, over a period of time, to get rid of the subsidies. Why weren't you able to get that kind of a agreement from the Canadians?

Ambassador YEUTTER. That is an excellent and appropriate question, Mr. Chairman, and one that is obviously on the minds of a lot of folks on this Committee and properly so.

We spent a lot of time on the subsidy issue. That probably occupied as much attention as any other issue. I might add, as a preface to my response, however, that the agreement with Israel involved only export subsidies, not domestic subsidies. And here, our concerns are much more with domestic subsidies than they are with export subsidies.

So, it is a bit of an apples and oranges comparison; but nevertheless, Canadian subsidy practices are a legitimate issue, and American subsidy practices, of course, are a legitimate issue for our Canadian friends.

We would have like to negotiate additional disciplines on Canadian subsidies, and we still plan and intend to do so. We were unable to do so here because the price, Mr. Chairman, that was asked for that discipline by our Canadian colleagues was in our judgment too high.

When we discussed these issues with you and others on Capitol Hill during the negotiating process, I think you agreed as well that the price was too high because the asking price was a total exemption of Canada from our subsidy countervailing duty laws and our anti-dumping laws; and we were not prepared to pay that price.

The **Chairman**. All right, Mr. Ambassador. We have a limitation here on time that I am going to put on each member so we can let everyone have a chance to ask questions.

You spoke on the energy sector, and obviously that is of some concern to me, being from the State I am from; and you spoke of some members saying that, in the long run, it would be a very important, beneficial factor. You stated "in the long run we are all dead." (Laughter)

I am concerned with what is happening while most of us are still around here. I have a State that is in a depression; part of it is the energy problem. I see an increasing dependence on the Middle East. We haven't had access to Canadian oil because we have had Mexican oil.

I see Canada topped out, and I see Mexico topped out; and I see the surge capacity in the Middle East. That concerns me; and that means, I think, that we need some stability in the industry here in this country. I look at a situation where American investors can't own over 49 percent of a Canadian company that is involved as a production facility in this, whereas, on the other hand, we have no such restrictions on them.

I was listening to one of the members talking about Canadians buying newspapers. They owned the Houston Post for some time down in Houston, and that same Toronto newspaper that owned it was strongly opposed to any American coming up and buying a Canadian newspaper. That is not fair any way you look at it.

Those are the kinds of concerns that we have. Now, tell me do you think it is consistent with our national interest and does it advance free trade for those kinds of limitations to exist?

Ambassador **Yeutter**. Of course not, but we made very, very substantial progress in the investment area. I think it is more appropriate that Secretary Baker respond to this one than I do because that was a portion of the negotiations under his jurisdiction. So, Jim, would you like to pick up on that?

Secretary **Baker**. Mr. Chairman, let me echo what Ambassador Yeutter said in his opening remarks that this agreement is no Utopia. We don't present it as utopian in the investment area, but we present it as very, very substantial progress in eliminating some rather significant and substantial restrictions to investment in Canada.

The two you mentioned are two where we were unable to do that, where we were unsuccessful; but we have eliminated screening of investment in Canada for 7,000 out of 7,600 corporations. We have eliminated screening of indirect acquisitions.

We approached the Canadians about limiting the restrictions on ownership of energy companies, and we were unsuccessful in getting them to eliminate the 50 percent requirement; but we were successful in getting agreement on national treatment, a ban on forced divestiture, agreement on compensation for any expropriation which might take place; and these things have happened in the past in Canada under prior governments, not under this current government.

So, we think we made progress even in that area, which was one of the very toughest that we confronted in the overall investment area.

The CHAIRMAN. Now, let me ask you about this. The Canadian Government gives much more in the way of incentives to developing those resources in their country, as far as oil and gas production. And yet, this free trade agreement freezes this into perpetuity through Section 907. Would the administration favor equalizing the incentives between the two industries by trying to bring about changes in U.S. law? You were diverted for a moment.

Secretary BAKER. No, I think I heard the question.

The CHAIRMAN. All right. Go ahead.

Secretary BAKER. I can't answer yes or no because it is so hypothetical, and I am not personally familiar with the exact nature of all the subsidies.

The CHAIRMAN. Oh, no, it is not hypothetical. I am talking about the specific incentives that they have for the Canadians for the drilling for oil and gas and that they are far beyond what we have in this country.

What I am asking of you is: Would this administration be for equalizing those by making changes to the U.S. laws? That is pretty specific.

Secretary BAKER. What I was about to say was that I am not personally familiar with each and every subsidy they have in their code, Mr. Chairman, with respect to oil and gas production.

Of course, we have some in ours, and some of them are tax provisions and so forth.

The CHAIRMAN. I understand.

Ambassador YEUTTER. Bob Reinstein is our energy expert here, Mr. Chairman, and I believe he has a comment.

Mr. REINSTEIN. Mr. Chairman, we have been working very closely with the Department of Energy on this question. It is a question that was raised last year, and it is a very valid question.

The Department, as I understand it, has nearly completed a fairly in-depth study on the whole broad range of tax, royalty, and other incentive aspects of oil and gas exploration and development in both the United States and Canada.

It is an extremely complex area. There are numerous different aspects of it; and when you go down the list of all of the different situations, in some cases Canada stacks up a little better; in other situations, the United States stacks up a little better.

The **Chairman**. Yes, but the preponderance is definitely on the side of the incentives for the Canadian industry as compared to our own.

Secretary **Baker**. May I answer it perhaps this way, Mr. Chairman, by saying that we certainly do support the elimination of restraints—certain restraints—and restrictions upon our industry. Price controls with respect to natural gas come to mind. This administration has been in favor of deregulating natural gas since January 20, 1981. We haven't been able to get it accomplished up here.

The **Chairman**. Before we go too far on that, we used to have something called the Bentsen/Pearson gas deregulation bill, as I recall. Up here, they called it Pearson/Bentsen, but back in Texas, it was——

(Laughter)

The **Chairman**. And I do recall that some of us pushed that through on this side, anyway.

Secretary **Baker**. Yes, sir. All I am saying is that we haven't been able to get it done overall, but mostly the problem is on the other side.

The **Chairman**. All right.

Secretary **Baker**. But windfall profits is another. I mean, we need to get rid of these kinds of restrictions and restraints on our industry if we want to start talking about leveling the playing field.

The **Chairman**. All right. I would like to ask one more question. Do you have the clock running? I like that slow clock on the chairman——

(Laughter)

The **Chairman**. Now, one more question. We see some things being done in Canada to distort trade, I think, before this agreement begins. We are seeing it in textiles, and we are seeing it in milk, and in some other areas.

What are you doing to prevent Canada from building a little import protection before this agreement takes hold?

Ambassador **Yeutter**. We are as distressed as you are, Mr. Chairman, with some of the either actions or proposed actions that seem to violative of the spirit of the agreement, or at least potentially so.

We have had some very serious discussions with our Canadian counterparts on that point. However, one must be somewhat patient with that process before drawing an definitive conclusions because much of what is there is still hypothetical.

In other words, there have been some trial balloons floated, but the trial balloons have not become reality yet. So, we are not in a position to judge until and unless they actually do become a reality.

If some of those do go into effect in 1989 and really are clearly violative of the FTA, of course we can challenge them under the FTA at that time. But we are going to have to look at them one by one. So far, it is mostly hypothetical activity, Mr. Chairman.

Secretary **Baker**. Mr. Chairman, let me add to that, if I might, that we met as recently as 5:30 last night, as the Ambassador says, with our Canadian counterparts respecting these issues.

I think progress is being made—well, I know progress is being made in the textile area that you mentioned. Again, as the Ambassador has mentioned, nothing has come yet; no action has been taken. We have registered our concerns with appropriate officials of the government of Canada.

We know that what was originally contemplated in the textile area is, at the very least, going to be very, very substantially reduced; and we are continuing to discuss this problem with them.

The **Chairman**. Thank you. Senator Packwood.

Senator **Packwood**. Mr. Chairman, thank you. I have a specific question for Ambassador Yeutter and a generic one for the Secretary.

I think we have already at least a violation of the spirit of the free trade agreement involving plywood, and you know the situation. Grade C and D plywood are our normal structural plywood. Canada has a standard promulgated by their Canadian Mortgage Housing Corporation, which is sort of like our FHA, that essentially holds that our plywood isn't good enough because the plywood cracks and the glue isn't good enough; it cracks in the cold weather.

Now, this same plywood can be used in International Falls, Minnesota; I don't know if we have any place as cold as that in Oregon, but it is used in Nome and it is used on the North Slope; and it doesn't seem to have cracked in most of the places where it is used.

So, under the agreement—as you are well aware—the Canadian Mortgage Housing Corporation was to do a evaluation; and they were to do it by March 15. And on March 15, they issued their order; and they didn't do what the agreement called for. All they did is said the U.S. plywood doesn't meet the Canadian standard.

Well, I know it doesn't meet the standard; you know it doesn't meet the standard. We were questioning the standard, and they were to do a reevaluation and didn't do it. And I want to know what you reaction to their decision simply not to do any reevaluation at all is?

Ambassador **Yeutter**. That action of Canada, Senator Packwood, is obviously completely unjustifiable. The Canadian organization did not do what it was asked to do and required to do, for that matter, under these negotiations.

So, what has transpired is definitely violative of the free trade arrangement.

Senator **Packwood**. I want to make a suggestion.

Secretary **Baker**. May I add to that, Senator Packwood?

Senator **Packwood**. Yes, of course.

Secretary **Baker**. Again, as late as 5:30 last night, that problem was raised with our Canadian counterparts; and we were told that they would be taking another look at that.

Senator **Packwood**. I hope they take another look at it; and, if they don't, let me make this suggestion. We have a technical laboratory in Wisconsin; they have one just across the border on the technical specifications for wood products.

Is there any reason why those two research organizations could not get together and make recommendations to develop a common standard that is effective for both countries, and withhold any tariff reduction until both countries plywood standards are compatible?

Ambassador **Yeutter**. I think that would be an excellent idea, Senator Packwood, because that is precisely the kind of problem we are talking about here. It is an issue of standards varying between the two countries, and one can really hypothesize no legitimate reason for that.

It seem to me that if your suggestion could be elaborated and followed through in an appropriate manner, it could be very helpful.

Senator **Packwood**. Mr. Ambassador, I thank you. Now, let me ask Secretary Baker a question and this is slightly off track a bit. At 2 p.m. this afternoon the members of this committee who are members of the Trade Conference are going back into session on a variety of issues. I think we have made pretty good progress, as a matter of fact, in our Ways and Means and Finance areas; and we are into some of the really tough things this afternoon: Section 201 and trade adjustment assistance. We are working at this hard, Mr. Secretary; but I want to know what kind of progress you are making with some of the other committees, other than Ways and Means and Finance, that are involved in the trade bill.

Secretary **Baker**. Senator Packwood, I am glad you asked that question because, quite frankly, I am a little bit discouraged about where we are vis-a-vis the other subconferences. I have to say that I think that the Flagship subconference, the Ways and Means and Finance subconferences are making very good progress.

As you know, we still have some major problems in that subconference, and I don't want to suggest that we don't; but I think working with Ambassador Yeutter, you are making very, very good progress.

I have to tell you I don't think we are making that kind of progress in the other subconferences. I think it is fair to say that the entire administration has been actively involved in trying to craft a bill which the President can sign. That has been his position from day one. He would like to have an omnibus trade bill that is a responsible one and one that he can sign.

But I must tell you that we do not seem to see the same willingness, for instance, to jettison provisions that might be supported by only one member in the conference as we saw in the trade subconferences. We are not seeing that, frankly, in the banking and investment subconferences. And I really hope that the absolutely superb efforts of Ways and Means and Senate Finance are not going to be subverted and overwhelmed by what could be called intransigence in some of the other subconferences because it is important that this bill be responsible and reasonable in all of its elements, not just in those that might properly be called trade.

I have expressed my concern to the chairman, and we have discussed this; and I hope that you all will be in a position to help us with these other subconferences so that we can get a bill that the Congress and the President can agree upon to improve the trade situation for the United States.

Senator **Packwood**. Thank you, Mr. Secretary and Mr. Chairman.

The **Chairman**. If I might just interrupt here for just a minute, because this is a very serious concern to all of us, I think. Let me say, Mr. Secretary, that I don't think the consulting process was going very well and I don't think the administration was participating as I thought they should.

But I think that has changed, and I think you help bring about that change; and I am appreciative of it. But let me also make the point very clearly that no one person is going to write this bill including the President or the Senate or the House. This is going to be a consulting process where we develop a consensus in trying to get a good piece of legislation and hopefully one that the President is going to sign.

But some of these things, I don't think, we just drop. I look at the exchange rate policy and the question about it. I look at a number of the groups that support something being done on that.

I look at the Business Roundtable, the Emergency Committee for American Trade, the National Association of Manufacturers, the National Foreign Trade Council, the U.S. Chamber of Commerce, the U.S. Council for International Business; and it means that some compromise in some of these things has to be achieved and brought about.

I congratulate you on some of the things you have been able to do in Treasury; I appreciate that. It is going to take working together—all of us—to try to accomplish some of these things.

Next, we have on the list of arrival Senator Chafee.

Senator **Chafee**. Thank you, Mr. Chairman. Mr. Secretary and Mr. Ambassador, what about this cultural sovereignty problem? It seems to me that is one that has dogged us for a long time up here.

The term "cultural sovereignty" can encompass a host of activities that I feel Americans should legitimately be entitled to enter into, whether it is magazines or television, films, music. Why is that exempt? And how well did we do in breaking through that barrier?

Ambassador **Yeutter**. That, Mr. Chafee, was also one of the most difficult parts of the entire negotiation because of great sensitivity on that subject in Canada. I suppose if we were Canadians, we might share that sensitivity to a greater degree than we appreciate it from our vantage point here in the United States.

So, we had to work very hard to come up with a fair handling of the issue. It was imperative that cultural sovereignty exemptions—if one can call them that—be included in the agreement or there would never have been an agreement. Our Canadian counterparts made that clear from the very first day.

So, the question was really one of how they could be handled in such a way as to protect our own interests, and we were able to agree on language, Senator Chafee, that provides that should those exemptions have an adverse economic effect on the United States, we have the right under the agreement to offset them in an appropriate way.

So, we believe that that should be an insurance policy against actions that will be harmful from an economic standpoint to the United States. If they are harmful, we can challenge them under the provisions as they are written in the agreement; but it was not an easy are to deal with.

As Secretary Baker indicated, we resolved some of the individual problems in that area as a part of this negotiation. There are some that still are pending.

Senator **Chafee**. All right. Let me ask you another quick one. With the free trade agreement, the importation of home heating oil from Canada would be duty free into the United States. Then, let's suppose—and this isn't such an iffy question because this has been up before us since I have been here, certainly four or five times—an oil import fee is imposed.

Let's take $10 a barrel; that has been pressed by some very distinguished Members of the Senate. I am not sure they are always right on the subject—well, I am sure they are wrong—but nonetheless, they have entered into it with considerable vigor.

Now, that works out to about 18 cents a gallon. So, it would seem to me that the Canadian wholesalers would overwhelm the northeastern United States wholesalers with their duty free oil coming in. What happens to our folks under an arrangement like that?

Ambassador **Yeutter**. All right.

Senator **Chafee**. Because obviously the oil import fee would not apply to Canada.

Ambassador **Yeutter**. Yes.

Senator **Chafee**. It couldn't under this agreement.

Ambassador **Yeutter**. That is correct. I would like to ask Mr. Reinstein to come up and respond to that, if you would, please?

Mr. **Reinstein**. At the time we negotiated the energy chapter, we recognized that we had to include in it some recognition of this kind of possibility; and we did include in there a provision for consultation.

There were concerns about disruption that could occur on either side as a result of an oil import fee; and so, this was really a mutually agreed provision, and we think that we will be able to handle that kind of situation. There are a number of ways you can do it, and we discussed them in the negotiation.

We did not arrive at a prearranged way, but we agreed that we would consult very expeditiously and be able to handle that right away under the agreement.

Senator **Chafee**. I mean, consultations are nice, but what happens? Meanwhile, the American wholesalers are driven out of business. They couldn't compete on an 18 cent differential. So, you consult with the Canadians, and they would think that the oil import fee was splendid; they would encourage it, and they would be able to drive our wholesalers right out of business.

Mr. **Reinstein**. As a matter of fact, they would not think it was so great because, in the west, the difference of the fee would basically suck all of the oil out of Alberta to the United States; and they would have a problem. They would have shortages, and they would have to import to replace all the oil that went south.

So, they have as big an incentive as we do to solve that problem right away and we have a couple of different ways it might be done. And we think we would have no problem reaching an agreement.

Senator **Chafee**. I see my warning light is on, but when you say "right away," is there a time limit in there that they would settle it?

Mr. **Reinstein**. There is not a time limit, and we did not think it appropriate to put a time limit on that provision because it is a very general provision. It is not just to deal with an oil import fee situation, but we think it would be certainly within 60 days, say, or less.

I don't think that we would spend much time worrying about it.

Senator **Chafee**. My time is up, but I would like to explore that further at some time.

Ambassador **Yeutter**. Yes, we would be happy to do that, Senator Chafee. In fact, we can give you more detail if you would like it.

Senator **Chafee**. Thank you.

The **Chairman**. Senator Chafee, we will explore it together.

(Laughter)

Senator **Chafee**. I am not sure we have a common interest on this matter, Mr. Chairman.

(Laughter)

The **Chairman**. I think everybody understands the political realities that you would have an exemption for heating oil. Now, the next one is Senator Danforth.

Senator **Danforth**. Ambassador Yeutter I certainly agree with that part of your comments when you said this is not a utopian agreement.

Ambassador **Yeutter**. I hope you also agree that it is a heck of a lot better than the status quo.

Senator **Danforth**. I don't know about that yet. Was any consideration in the negotiations given to those industries in the United States that are inherently sensitive to imports?

Ambassador **Yeutter**. Certainly because that is really what the tariff part of the negotiation was all about. As you well know, the tariff phase-out, which is an extremely important part of the agreement, as you yourself mentioned in your opening comments, was organized on that basis, with some tariffs phasing out immediately, some in 5 years, and some at 10 years.

Senator **Danforth**. But as far as those import-sensitive industries are concerned, isn't it just a question of when they drop dead, and not whether?

Ambassador **Yeutter**. Well, that depends on whether or not those industries are able to become bilaterally competitive in the 10-year phase-out period.

Senator **Danforth**. Let me ask you about one in particular. I think we have heard a common thread in some of the statements that have been made—opening statements made by various Senators—on potatoes and coal and so on. Let me ask you about lead.

The lead industry is import-sensitive. It has attempted modernization. Canadian lead is heavily subsidized by the government; our lead is not. Tariffs on lead imports are being eliminated by this agreement.

Doesn't that mean that in 10 years the American lead industry will be dead?

Ambassador **Yeutter**. I would hope not. It seems to me, Senator Danforth, that the prospects are not that gloomy for any industry, including lead, because there are a lot of things that can be done. One, obviously, is we would hope the industry would do its own job in terms of its competitiveness.

Senator **DANFORTH**. Assume that it is.

Ambassador **YEUTTER**. If its problem then is Canadian subsidies, then obviously we have ways to counter Canadian subsidies. We have countervailing duty laws; we have antidumping laws, if it is a dumping problem.

Senator **DANFORTH**. Let me just suggest this. Antidumping and countervailing duty laws, if they are export subsidies that are involved, are subject to this new rule where a binational panel has the final say.

But as you said in your testimony, the basic problem with Canada is that it is not export subsidies that are involved but production subsidies. That is the case with lead. What I am asking is: If tariffs are eliminated and nothing is done about production subsidies, isn't the effect to maximize the effect of production subsidies and make import-sensitive U.S. industries even more vulnerable?

Ambassador **YEUTTER**. They won't be any more vulnerable than they are at the moment, except for whatever benefit the tariff may be.

Senator **DANFORTH**. Of course, they will. That is exactly the point; of course, they will be more vulnerable because, for whatever benefit tariffs have, they do offset some of the effects of other practices of other countries.

We found with Japan, for example, that a country with very low tariffs can have very unfair trade practices. And what I am asking you is if the elimination of tariffs really accomplishes that much with respect to an industry like the lead industry, or aren't we in effect kissing it off?

Ambassador **YEUTTER**. We have to be careful that we don't overestimate the protective value of tariffs, Senator Danforth. We have relatively low tariffs today. In the case of lead, they are about 3 percent, and they will phase out over 10 years.

You know, that is not a gigantic protection against imports——

Senator **DANFORTH**. Where is the so-called level playing field? If whatever protection that we have in the United States—whatever help we are giving our industry—is given up in these negotiations, and if the Canadians have a subsidized industry, where is the level playing field?

Ambassador **YEUTTER**. To the degree that those subsidies are challengeable under our countervailing duty laws, obviously we can reach them; and I don't happen to think the change to a panel is going to affect that one iota.

To the degree that their subsidies are not challengeable under our countervailing duty laws today or in the future—and that is not affected, anyway, by this agreement—then we simply have to try to negotiate on those subsidies if they are a major factor.

We have opportunities to do that bilaterally; we have opportunities to do that in the Uruguay Round.

Senator **DANFORTH**. But you were not successful. You have just spent years trying to negotiate with Canada on the issue of subsidies.

Ambassador **YEUTTER**. Certainly.

Senator **Danforth**. You have just told us that you have gotten absolutely nowhere on this.

Ambassador **Yeutter**. But that is not to suggest that we shouldn't keep trying both bilaterally and multilaterally. I think we should.

If what you are suggesting, Senator Danforth, is that we ought to keep tariffs in place and kill the free trade arrangement, I think that is a very heavy price to pay.

Senator **Danforth**. Oh, I am not suggesting that. I am asking you what you intend to do about these import-sensitive industries.

Ambassador **Yeutter**. First of all, we should obviously retain their protection, as under countervailing duty laws and anti-dumping laws and Section 201. Section 201 is an issue dear to your heart which can be applied in these kinds of cases.

And then the industry itself has 10 years to try to adjust to that 3 percent movement in tariffs and try to be more competitive. Beyond that, I can't commit the next administration, Senator Danforth, because this administration is drawing to a close; but I would hope that the next administration would be willing to continue negotiations with Canada on subsidies. We have already laid out a plan in the free trade arrangement to have a 5-year subsidy negotiation. And then, I hope we will also consider subsidies to be a very high priority in the Uruguay Round, and we can go after them.

If I may, Mr. Chairman, I would like to add a broader comment on the subsidy issue, too. One of the reasons, Mr. Chairman—and we haven't talked about it this morning—that relates to why we didn't deal with a good many of the subsidies is because they are a multilateral problem and not a bilateral one.

There are a lot of Canadian and American subsidies that just have to be dealt with and that is disciplined multilaterally and no bilaterally. Using agriculture as an example it would have been foolish for the United States and Canada to work out a bilateral subsidy arrangement; we would have simply given a free ride to a lot of other people around the world.

So one has to look at all these subsidy issues in a very careful way.

Secretary **Baker**. Mr. Chairman, may I just add to that? I think we might have been able to deal with subsidies—and the Ambassador may have touched on this earlier—had we been willing to recommend up here that we get rid of our countervailing and anti-dumping laws and submit to a dispute settlement from the very beginning—a dispute settlement mechanism—which is what the Canadians really wanted.

Had we been willing to consider that, I think they would have moved on subsidies; but that was something that was not of interest up here. Frankly, it really was not that much of interest to us, but we did explore it.

And as the Ambassador said I think the place for us to try and move in that area—if I may suggest it, Senator Danforth—is in the Uruguay Round and in the follow-up action that is called for in this agreement.

The **Chairman**. Thank you very much.

Senator Wallop I had not noticed that you had returned. You are on the early list of arrivals.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Thank you, Mr. Chairman. Let me just pursue that whole thing because, if you have a 5-year subsidy negotiation I will not have and America will not have a uranium industry. I mean, that is too long for us.

The agreement, as I understand it, does not require Canada to eliminate government subsidies; and yet the uranium industry of Canada is a government monopoly, entirely subsidized by the government.

Now, let me just explore something here. I think you would agree that the uranium industry in Canada is a government monopoly, would you not?

Ambassador YEUTTER. I would rather have the energy experts say that. Let me see if Mr. Reinstein agrees with that.

Mr. REINSTEIN. Senator, there is a substantial degree of government ownership, although there is a plan right now to privatize substantial portions of that industry. Parts of the industry today are owned by the private sector; and in fact, there is some foreign investment in Canada.

Senator WALLOP. Very small parts; I mean, probably less than 10 percent of the Canadian uranium industry. Would you agree with that? And the privatization is a process that takes place over—what is it?—the next 7 or 8 years?

Mr. REINSTEIN. They have just made a proposal on that. We would have to get all the details on that for you and follow it up; but they have made a major proposal to privatize a very substantial portion of their industry.

Senator WALLOP. I understand that, but it also limits foreign ownership of that privatization to 5 percent to any one company and 20 percent overall.

Mr. REINSTEIN. We are examining that, but that is the kind of issue, for example, that when we propose privatizing our uranium enrichment business, I assume we are going to look at the question of how much foreign ownership we are going to allow there, too.

So, this is the kind of issue that both countries look at in an area as sensitive as uranium.

Senator WALLOP. Isn't it also the case that the government will continue to own any new ore finds in Canada?

Mr. REINSTEIN. It is not my understanding that they would own new ore finds. No. We can check that out.

Senator WALLOP. Could you check on that because it is our understanding specifically that they would?

Mr. REINSTEIN. We will check that out, but I don't believe that to be the case.

Senator WALLOP. We have an industry which has been trying to compete, and there is no restriction on Canadian imports today. That is one of the reasons we have a problem.

I think that most people would agree that the Canadian industry could not possibly exist were it not for essentially interest-free—not interest-free loans—they pay the interest but no principal.

I mean, going to Senator Danforth's world of a level playing field, it is impossible for me to see how this was a fair concept with regard to the domestic uranium industry.

Mr. REINSTEIN. As a matter of fact, Senator, the Canadian industry would do very well because they have the world's richest uranium ore.

Senator WALLOP. I think that is a myth; and let me tell you that I challenge that specifically. I believe that the American uranium industry will tell you specifically that all, but for one, of their resources are not competitive in mining costs. They have nice rich ore, but in mining costs they would not be able to be competitive, were it not for the major government subsidies.

Mr. REINSTEIN. The older uranium deposits in Ontario are comparable with U.S. deposits in ore quality; but the newer deposits in Saskatchewan, particularly those that have not yet been developed at Cigar Lake, are extremely rich. They are orders of magnitude richer than American uranium.

Senator WALLOP. But in the meantime, while those come on, we have to compete with a fully government subsidized industry; and I think that that cannot be said to have been a well thought out part of the free trade agreement.

Ambassador YEUTTER. But Senator Wallop, if that is so, if government subsidies do have that kind of impact, they ought to file a countervailing duty case.

Senator WALLOP. I think that may have to be. I have my yellow light on, so let me read a question to you; and I need a response to that. The free trade agreement provides transition periods to phase out various trade restrictions. For instance, custom user fees are phased out between 1990 and 1994; and the transition period for the overall agreement extends until December 31, 1988.

Now, the Uranium Revitalization Act, pending on the Senate calendar, has a phase-out period which is compatible with the free trade agreement. If the Act is enacted before Congress approves the free trade agreement, is it not correct that the provisions of the Act would be compatible with the letter and the spirit of the free trade agreement.

Ambassddor Yeutter. I would like to ask Chip Roh, one of our lawyers, to respond to that, if I may. We just lost him; Bob, do you want to do it?

Mr. REINSTEIN. The provision you are referring to is Title I of S. 1846; it is not compatible with the free trade agreement.

It constitutes a violation of the principle of national treatment in imposing taxes on foreign uranium but not on domestic uranium. It would be a new restriction; it would not be an existing restriction.

Senator WALLOP. Mr. Chairman, I know my light is red, but it is not a question of imposing taxes. It is a requirement for a proportional consumption over the period of the 12 year phase-out. It is not a tax.

Mr. REINSTEIN. It is in effect a domestic content requirement, 50 percent of domestic——

Senator WALLOP. Declining over the period of transition that matches that of the free trade agreement.

Mr. REINSTEIN. My understanding is that it doesn't really decline, and that it extends to the year 2000.

Senator WALLOP. No, no. I think you are incorrect on that. I am sorry, Mr. Chairman, I know my time is up; but I think you are incorrect on that.

Ambassador YEUTTER. We will evaluate it, Senator Wallop. We will be glad to give you a response.

The CHAIRMAN. Senator Mitchell.

Senator MITCHELL. Thank you, Mr. Chairman. I would like to make just a couple of comments and then ask one question along the line that has been discussed with Senator Wallop.

First, I want to reinforce the view expressed by Senator Chafee regarding the need for a time limit on consultation on the question of the effect of an oil import fee if one were enacted. We hope we can work with you on that. That is of critical importance to us in New England.

Second, on the question of cultural sovereignty, as you know Canada appears to be determined to restrict the entry of U.S. films, TV and home video programs into their market.

Mr. Chairman, I ask unanimous consent that there be placed in the record an article from the Toronto Star dated February 18, the headline of which is "Film Law to go Ahead Despite U.S. Protests, Ottawa Declares."

The CHAIRMAN. Without objection, that will be done.

Senator MITCHELL. I hope we can work with you on implementing legislation to deal with that serious problem as well.

And finally, I would like to get back to the question of subsidies because that really is a problem for us. To emphasize for you my remarks in my opening statement on subsidies for potatoes is not an abstract concern I ask unanimous consent, Mr. Chairman, that the following article from the Bangor, Maine Daily News dated March 4—less than 2 weeks ago—be entered in the record.

The dateline is Frederick, New Brunswick and the head line is: "Canadian Potato Farmers to Get $17.2 Million in Additional Compensation." The article indicates that the Canadian Agriculture Minister announced another $17.2 million in compensation to Canadian potato farmers for the low prices in the 1985 crop year. That was in addition to $9 million that they have gotten in provincial subsidies before.

[The articles appear in the appendix.]

Senator MITCHELL. To give you some basis for comparison, during this same period, the Maine potato industry asked Senator Cohen and me to request a $5 million assistance program from our Department of Agriculture. We asked the Secretary; he turned us down. He gave us three reasons, one of which was: "We don't want to enact a subsidy program here for potatoes because it might offend the Canadians."

In the meantime the Canadians are pursuing, in this case both provincial and Federal subsidy programs.

You see what has happened is there is an overwhelming incentive on eastern Canadian producers to overproduce because there is no disincentive for overproduction. These subsidies deal with overproduction in the prior growing season.

Now, you combine that with their provincial laws, which effectively prohibit American potatoes from being shipped into eastern Canada, and you really have a very unfair situation.

I think, as Senator Wallop expressed, that you have to suggest more than we are going to talk about subsidies over the next 5 years.

Mr. Secretary, I just want to express a disagreement with you on what I know was an opinion.

You expressed the opinion that the Canadians were willing to tackle the subsidy issue if we had just dealt with the countervailing duty provisions here; but I am going to say to you that it is my opinion—and I follow Canadian politics very carefully—that there is not a ghost of a chance that the Canadians would have dealt with the subsidy issue in this agreement because it would have been politically fatal to them to try to get a free trade agreement of this type combined with an elimination of subsidies.

Subsidies are very deeply entrenched in their society.

Secretary **Baker**. I don't disagree with you. What I meant to say—and if I expressed it wrong, let me correct it right now—was that we could have had, I think, a chance at subsidies if we had been willing to do something that frankly we were unwilling to do. Congress was unwilling and so was the administration.

Senator **Mitchell**. But I am disagreeing with that. We didn't have a chance on that; they never would have agreed to it because the fact is it would have been politically fatal.

As it is, as you know—Mr. Yeutter, you follow Canadian circumstances—the agreement is a close call in Canada now. Sentiment is swinging in favor of the agreement—but not by much. Of course, the government can implement it under their parliamentary system, but they have an eye on the coming election as well.

We saw what happened in the recent election in Ontario of the prime minister, where this was the central issue of the victorious party. Two of the three parties are now committed to abrogate this agreement, if they take power.

My question is: What tangible can you tell us about subsidies in the future? How are we going to deal with this?

Ambassador **Yeutter**. I am more optimistic than that, than your remarks might indicate, Senator Mitchell, although it clearly will be a long, hard, difficult negotiation because there are a lot of folks in Canada who like subsidies, just as there are some folks in the United States who like subsidies. I would add, though, as a follow-up to your colloquy with Secretary Baker that the Canadians did have subsidy disciplines on the negotiating table. As we indicated, their price was too high; but there were indications of willingness to discipline Canadian subsidies.

Now, what we have to do is pursue these avenues, both in the Uruguay Round and bilaterally in the future. There is no reason why we can't take on potato subsidies, for example, as a bilateral negotiating priority; and I hope the USDA would be prepared to do that. And there is no reason why we can't take on their potato subsidies in the Uruguay Round.

Until we make some progress, either bilaterally or multilaterally, obviously we have got to counter them through the countervailing duty laws here.

Secretary **Baker**. We are not able, Senator Mitchell, to deal with our agricultural subsidies in the United States unless our competitors do it as well. Therefore, it has got to be done in a multilateral context.

The Cairns Group of countries, of which Canada is a member, are pushing and pushing and pushing at every economic summit, at every multilateral meeting that I attend, pushing for the world really to deal with the problems of agricultural trade—the biggest trading problem facing the world. When once we can confront that in a multilateral context, I frankly think we have got a good chance to deal with Canadian agriculture subsidies.

Senator MITCHELL. My time is up. I have some suggestions on that that I would like to pursue with you later.

Ambassador YEUTTER. Surely. I might just add one point, too, Senator Mitchell, that we haven't mentioned this morning; and that was when we got to the subsidy issue, we got substantial resistance on the U.S. side from a lot of governors about disciplines on subsidies, including some of the governors who represented States around this table.

The CHAIRMAN. Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman. I am wondering if we could get some tangible results on subsidies because obviously that is the major problems with this agreement.

You indicated, Mr. Ambassador, that it is your hope that at the Uruguay Round we can reach some results; and I know that the agreement contemplates both sides trying to reduce subsidies at some future date. But there really is nothing very tangible in the agreement. Canada still does subsidize much more than do we.

In fact, I have statements from Canadian government officials, including Simon Reisman, who pointed out that Canada is required by its constitution to subsidize noncompetitive industries. Other statements by Canadians claim that Canada is exempt from future changes in U.S. CVD law.

I am wondering if there is some room here in the implementing language to try to address this problem. For example, it seems to me that we could write implementing language, a provision that the United States will abrogate the agreement at the end of 5 years if Canada does not reduce its subsidies at a level comparable to the United States' level, or some such measure.

It seems to me we are going to have to have some provision in the implementing language that has some teeth in it——that has some enforcement mechanisms in it. Otherwise, Canada is not going to reduce its subsidies.

In all these trade matters, I have never yet seen a country that altruistically wants to help the other country out.

A country tries to go as far as it can in helping itself until finally it has to toe the line because the other country is taking a countervailing measure.

So, I am asking two questions. One is a general one. What specific ideas do you have for the implementing language that can address this question of unequal subsidies?

The more specific question is: Will the administration agree to language which provides that the United States will opt out of this agreement at the end of 5 year if the Canadian subsidies are not reduced at a level which is similar to that in the United States?

Ambassador **Yeutter**. Senator Baucus, we have the option—either country does for that matter—of opting out on 6 months' notice for any reason. So, any time that we want to terminate the free trade arrangement, we can do so without any notification.

Senator **Baucus**. But I am trying to find a mechanism that forces Canada to do what Canada knows Canada should do—reduce their subsidies.

Canada subsidizes so many industries. Plywood is one; the lead smelting industry is another. Senator Mitchell talked about potatoes. The list is endless.

The trouble with this agreement, in addition, is that it does not prevent Canada from enacting future subsidies to any of its industries. And if it does so, the agreement limits our ability to countervail those subsidies.

Ambassador **Yeutter**. Oh, no.

Secretary **Baker**. No, I don't think so.

Senator **Baucus**. As I read the agreement, the panel has to look to see whether future CVD changes—on either the American or the Canadian side— are consistent with past practices. And if they are not—as I read the agreement—the President is to resist those changes that Congress may have enacted. That is my reading of the agreement.

Ambassador **Yeutter**. The intent of that provision, Senator Baucus, is to keep both countries from violating the spirit of the antidumping/countervailing duty laws as they are now constituted. In other words, the concern there is whether the two nations would choose to change their countervailing duty laws in a way to make them more protectionist, if you will.

And what it simply says is that if either of us chooses to do that, the other side will ultimately have a chance to counter that.

Secretary **Baker**. But additional subsidies would clearly be countervailable. Any additional subsidies would clearly be countervailable.

Senator **Baucus**. That is not clear, it has to be made clear in the implementing language.

Ambassador **Yeutter**. But we think it is absolutely clear.

Secretary **Baker**. We can sure do that, Senator Baucus.

Ambassador **Yeutter**. We can make that very clear.

Senator **Baucus**. But still, the basic question of subsidies still has to be addressed. My time has expired, but I think it is critical to get congressional passage of this agreement that we make tangible effort to get Canada to reduce its subsidies in the implementing legislation.

Ambassador **Yeutter**. I don't think we can do that, Senator Baucus, because that would violate the free trade arrangement. If we sought to do that, Canada would simply come back and say: What are you prepared to pay for that? We have no obligation to make that kind of——

Senator **Baucus**. I suggest you be a little more open minded about that, be more creative and more imaginative to find a way.

Ambassador **Yeutter**. We are going to have to be very careful or you will torpedo this agreement——

Senator **Baucus**. Canada is also going to be passing implementing language, and we can be sure that Canada is going to try to draft that implementing language in a way that is most favorable to Canada.

Ambassador **YEUTTER**. We will try to draft in the same manner, obviously, favorable to us, that is.

The **CHAIRMAN**. Senator Bradley.

OPENING STATEMENT OF HON. BILL BRADLEY, A U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator **BRADLEY**. Thank you very much, Mr. Chairman. I know that both of you have heard a number of specific objections today relating to different aspects and to different sectors of the economy that various Senators believe might or might not be adversely affected by a Canadian free trade agreement with the United States.

I would like to pursue some of those and see if we can get behind the immediate concerns and see how large the problem really is. There is, for example, concern about the antidumping and countervailing duty settlement mechanism.

Maybe we could get a sense of how big a problem this is by focusing on those things that have taken place in this area between 1980 and 1988. Could you tell me, between 1980 and 1988 as I understand it, there were 21 U.S. investigations of Canadian dumping compared to 42 Canadian investigations of U.S. dumping. Is that right?

Ambassador **YEUTTER**. I believe your numbers are correct, Senator Bradley.

Senator **BRADLEY**. And of those cases, only nine of the U.S. cases resulted in immediate antidumping actions against Canada?

Ambassador **YEUTTER**. Yes, I believe that is also correct.

Senator **BRADLEY**. While 23 of the Canadian cases ended up in immediate antidumping actions against the United States?

Ambassador **YEUTTER**. Correct.

Senator **BRADLEY**. Would you then conclude, that the settlement mechanism embodied in this agreement is only going to be a net gain for the United States?

Ambassador **YEUTTER**. One should not evaluate that question solely in mathematical terms obviously, Senator Bradley; but certainly one might come to a hypothesis based upon those numbers that we would certainly have nothing to lose from the panel process that is outlined in this agreement.

Senator **BRADLEY**. It seems that under Canadian law, they have hit us 23 times and we have only hit them 9 times.

Ambassador **YEUTTER**. That is correct. Now, let's——

Senator **BRADLEY**. Is this going to be any worse?

Ambassador **YEUTTER**. I hope that none of those 23 times were arbitrary and capricious decisions, but clearly, one can draw from that set of numbers the conclusion that we certainly have nothing to lose and we could have something to gain.

Secretary **BAKER**. Senator Bradley, let me chime in here and tell you that I don't think we are going to be disadvantaged by this binational dispute settlement mechanism approach at all.

Senator **BRADLEY**. That is antidumping. What about the countervailing duty problem? People are concerned that they won't have the right to appeal or the right to appeal will be ultimately determined by a binational panel. I am curious. Between 1980 and 1988, how many appeals of countervailing duty orders have there been?

Ambassador **YEUTTER**. I am not sure what the numbers are. I believe that Mr. Roh has them.

Mr. **ROH**. I believe it is six, Senator.

Senator **BRADLEY**. So, there have only been six appeals in 8 years?

Ambassador **YEUTTER**. That is correct. I have felt confident all along, Senator Bradley, that we have been operating our subsidy countervailing duty laws and antidumping laws in a sound way without any arbitrary and capricious decisions. And as long as we continue to do that, I don't think the panel addition, as Secretary Baker points out, is going to change things one iota.

Senator **BRADLEY**. Were any of those appeals in the last 8 years actually granted?

Ambassador **YEUTTER**. I will ask Mr. Roh to respond to that.

Mr. **ROH**. I don't believe so, Senator, but four of them are still outstanding.

Senator **BRADLEY**. All right. So, in the last 8 years, there have been six appeals; and none have been successful to date, though four are still outstanding. The question then is: What again do we have to lose by a new mechanism?

Ambassador **YEUTTER**. We sure concur with that; and I might add, Senator Bradley, that it has seemed strange to me that there have been any expressions of reservation about that concept here in the United States because we have used that kind of procedure in arbitration proceedings in this country thousands of times through the years. This is really no different in concept from that.

It is well accepted and has been for a long time.

Senator **BRADLEY**. Does the agreement in any way change U.S. antidumping or countervailing law?

Ambassador **YEUTTER**. It does not.

Secretary **BAKER**. No.

Senator **BRADLEY**. So, it does not change what is on the books now at all?

Ambassador **YEUTTER**. Not one word.

Secretary **BAKER**. Nor, Senator Bradley, if I may volunteer does the binational dispute panel apply anything but U.S. law in cases arising in the United States.

Senator **BRADLEY**. And as I understand it, there was at one point a question about constitutionality, but that was dealt with by having yet another appeal panel in which there would be a U.S. judge. Is that correct?

Secretary **BAKER**. We don't think there is any question now with respect to the constitutionality of the process, Senator Bradley. We think it is clearly constitutional.

It is not a great deal unlike the Iran/United States Claims Commission, which has operated to the distinct advantage of commercial claims by United States citizens against Iran and which has been upheld in a United States Supreme Court case. The constitutionality was upheld in a United States Supreme Court decision.

Senator **BRADLEY**. And if we got down to——

The **CHAIRMAN**. Gentlemen, if you could summarize, please? Your time has expired.

Senator **Bradley**. I thought I would maybe take a little bit of my opening statement time. (Laughter)

The **Chairman**. That is my bad ear, Senator. (Laughter)

If you would summarize, please?

Senator **Bradley**. If there was any problem, if we got into this process and found that there was a series of judgments from the panel that were highly detrimental to the United States, we would also have the right to withdraw from this agreement with 6 months' notice. Is that correct?

Secretary **Baker**. That is correct.

Ambassador **Yeutter**. Of course.

The **Chairman**. Thank you. Senator Daschle.

OPENING STATEMENT OF HON. TOM DASCHLE, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator **Daschle**. Thank you, Mr. Chairman. Responding to what Senator Bradley was saying, I doubt that the number of antidumping cases on either side indicates really any accurate reflection of bonefide cases. It could be a factor of the aggressiveness with which these case were filed more than on the nature of those cases.

We would want to take a good close look at that. But I have to agree with the chorus of those who preceded me in expressing my concern about the inability you have demonstrated to consider subsidies in this agreement.

Subsidies are just as significant in a trade agreement as warheads are in a nuclear agreement. Yet, you have a fundamental factor affecting free trade that our negotiators are saying is not going to be on the table as far as this agreement is concerned.

We have dealt with probably 20 issues already by all of those who preceded me in questioning, all relating directly or indirectly to the issue of subsidization. Are you saying that subsidization cannot be negotiated here?

Ambassador **Yeutter**. I said in my opening comments, Senator Daschle that if one judges this as a true free trade arrangement, one would have to conclude that it is not.

But if one judges it on the basis of whether or not the country is better off if it advances the cause of free trade, it clearly does. There is almost no one disadvantaged by anything in this agreement.

In other words, if one looks at the areas of this agreement that are advantageous to the United States, versus any areas that would be disadvantageous, it tilts enormously toward the former.

We can't crucify this agreement because it doesn't solve all the problems of the world, any more than you can crucify an arms agreement because it doesn't solve all of the arms problems of the world.

What you have to compare, Senator Daschle, is whether we are better off at the end of the day with it or without it? Your constituents in South Dakota are a heck of a lot better off with it than without it.

Senator **Daschle**. I would have to challenge that.

Ambassador **Yeutter**. I would be glad to debate it.

Senator **Daschle**. You have seen so many examples here already. Obviously there is a concern about whether we are better off or not. Those critics of the agreement who say we have actually pitted one industry against the other, one region against the other, have to be addressed.

Ambassador **Yeutter**. But Senator Daschle, let's just assume that the agreement that we have just negotiated just disappeared from the face of the earth. Those Canadian subsidies are still going to be there.

Canada is not going to stop subsidizing if we turn down this agreement. We have to find a way to discipline those Canadian subsidies. We didn't get it done in this agreement; we are going to have to do it in other ways.

Senator **Daschle**. Let me just be specific because I know my time is running out. I am concerned with the way we calculated these subsidies. Are you in agreement with the producer subsidy equivalent system that has been established here?

Ambassador **Yeutter**. I haven't examined it that carefully from a personal standpoint, but——

Senator **Daschle**. Do you agree with the PFC as it relates to agriculture?

Ambassador **Yeutter**. Sure because the intent is to try to aggregate the support on both sides so that one can make a legitimate comparison.

Senator **Daschle**. Do you agree then with the conclusion that, under the PFC calculation, there is a heavier subsidization of U.S. agriculture than there is Canadian agriculture?

Ambassador **Yeutter**. Yes.

Senator **Daschle**. Would you care to——

Ambassador **Yeutter**. Yes, today. That doesn't necessarily mean it will be the same way tomorrow. Ann Veneman has a comment here.

Senator **Daschle**. I want to get one more question in under my time, and then I will let you answer both questions.

The **Chairman**. Thank you very much. (Laughter)

Senator **Daschle**. The chairman is running a tight operation here this morning. I am concerned a great deal with regard to foreign subsidies, and how it was that we left the Canadians with such a large loophole with regard to the way grain enters the United States, a loophole excluding the Great Lakes and eastern ports.

How was it that the vast majority of grain entering into the United States to be excluded from the calculation of that grain which is eligible to enter the United States in the first place? Address both of those.

Ambassador **Yeutter**. Sure. I will ask Ann to supplement what I have to say. As you probably know Senator Daschle, the reason for that was that that is not considered to be an export subsidy program and, therefore, definitionally is handled differently, just as it is today.

In other words, there will be no change in that program. The Canadians did agree to a phase-out, as you know, of the western grain transportation subsidy on grain moving into the western part of the United States. So, that situation remains unchanged as the result of the agreement.

But I must say to you, Senator Daschle, that there are some provisions in this agreement that are going to turn out or could turn out to be very important to your constituents and to all of the agricultural constituents.

There is a commitment now that Canada will not use export subsidies on agricultural products that would come into the United States. That commitment did not exist prior to this agreement. We committed likewise not to use export subsidies to penetrate the Canadian market.

And we also have an agreement here that Canada will not use dual pricing programs to penetrate the U.S. market. They must move any grain into the United States in government hands on the basis of acquisition costs plus transportation and storage. That is a commitment that is not there today, and I think that is pretty important.

I would like to make one additional comment that doesn't relate to you, Senator Daschle, but applies here. I hope all of you, when you visit with your constituents, will make sure that they have their advantages and disadvantages properly figured out.

I testified before the House Agriculture Committee here 2 or 3 weeks ago, Mr. Chairman, and one of the members of that committee asked all kinds of questions of the nature of those that have been surfacing this morning, this particular line of questioning on behalf of an agricultural industry, indicating that his constituents were all disturbed about the United States-Canada agreement.

Just a few days ago, a representative of that industry came to me and smiled and said: You know, we are sorry; we figured it out wrong. We concluded that we are better off with the Canada agreement. So, the Congressman who asked you all those questions is now satisfied.

So, let's be sure that the industry interests that are expressing their concerns have calculated it correctly; and I happen to think, in the case of wheat, Senator Daschle, they haven't. Ann.

The CHAIRMAN. All right. Go ahead.

Ms. Veneman. All right. Just a couple of comments on the PFC approach. It is important to recognize that those PFC calculations were based on the OEC methodology, but tailored specifically to United States and Canadian programs.

They are used only to measure for wheat, oats, and barley when the subsidy levels become equivalent for purpose of taking off Canadian licenses.

Those preliminary calculations under those formulas have shown that, for wheat, the United States does in fact subsidize at a higher rate. Other agricultural products, we are not sure about at this point. Certainly for oats, it looks like we are lower.

The CHAIRMAN. Thank you very much. Senator Durenberger.

Senator DURENBERGER. Mr. Chairman, I think at noon we went to a 5-minute light, but Senator Daschle just got about an 8-minute response.

The CHAIRMAN. There is always somebody trying to beat the system around here. (Laughter)

Senator **Durenberger**. Yes. Mr. Ambassador, how many American agricultural organizations or sectors of agricultural commodities have endorsed this trade agreement? Do you know?

Ambassador **Yeutter**. Ann Veneman could perhaps answer that. As you know, one has to head up memberships, if one wants to do it, the largest organization by far does endorse it.

Senator **Durenberger**. All right. A couple of specific questions in the area of agriculture. It seems to me that one of our problems is that a totally arbitrary countervailing duty decision can really close us out of a Canadian market. We have been together discussing in the past the corn decision.

They enacted an 85 cent tariff and took us out of the Canadian market. So, is it true, that this agreement doesn't do anything to change that?

Ambassador **Yeutter**. It does not change countervailing duty laws on the part of either country.

Senator **Durenberger**. One of the things we did because of some work in this Committee is we got the GATT to find out whether that action on the part of Canada was GATT legal.

Ambassador **Yeutter**. Yes.

Senator **Durenberger**. Under the dispute settlement procedures in this agreement, could we still get the GATT to overturn such an arbitrary decision?

Ambassador **Yeutter**. Yes, we can. The agreement preserves all our GATT rights in all areas.

Senator **Durenberger**. Under the agreement, it appears the Canadians will end their ban on the import of American wheat as soon as the Canadian and American support levels are theoretically equal; but there is some dispute on the issue of equality, whether the U.S. levels are any higher than Canadian. Do you believe our support levels for wheat are equal to or higher than Canadian support levels?

Ambassador **Yeutter**. Yes. Ann Veneman just commented on that, and the calculations do show that ours are somewhat higher at the moment. If anyone wants to ask questions about the methodology of making that calculation we would be happy to have the ERS economist at the USDA explain that. Senator Daschle had the same inquiry.

I think conceptually it is sound.

Senator **Durenberger**. On the export enhancement program subsidy issue, obviously we pledged not to use our enhancement subsidy program for sales in Canada, and we also got the Canadians to agree that they would reduce their rail transport subsidy going west.

Now, they haven't done it east. I think the estimate on the subsidy going east, which will affect those of us from the midwest, is something like $24 a ton. They are about a quarter of the world price of wheat.

How do you justify allowing the Canadians to maintain that export subsidy against American farmers when we aren't going to have an export subsidy?

Ambassador **Yeutter**. As we indicated earlier this morning, Senator Durenberger, there are a lot of Canadian and U.S. subsidies that will continue in the aftermath of this agreement. We have the privilege of negotiating on those bilaterally if we wish. The Canadians were unwilling to eliminate that subsidy as a part of this negotiation, just as we were unwilling to eliminate a lot of our subsidies as a part of this negotiation.

But there is nothing that precludes us from negotiating further in the future.

Senator DURENBERGER. Various people have asked about actions taken by Canadians since the agreement was signed. In their little book on agriculture, they assure the folks in the dairy business up there that they have kept in place their existing controls and that they have taken some recent action to widen the scope of import controls in support of the milk supply management system.

One of the things they have done is impose a new quota regime on ice cream and yogurt products, and the system is causing some difficulties for my constituents. Their answer to it is that it does relate to what is going to happen in connection with this agreement.

Is this one of those "as late as 5:30 last night when we talked to them about issues?"

Ambassador YEUTTER. I don't believe that particular issue was on the agenda yesterday, but we have had some discussions with our Canadian friends about that one because I consider that to be a deplorable violation of the spirit of the agreement, even though it really has very little effect on trade flows.

In other words I don't see your constituents being disadvantaged in any substantial way by it. It is just that the symbols are very bad, and the Canadians shouldn't have done it; but we don't see it as having a significant impact on trade flows compared to the restrictions that are already in place.

Senator DURENBERGER. I see my time is up. Thank you.

The CHAIRMAN. Mr. Secretary, I apologize but I have to leave for an appointment downtown. Senator Moynihan will chair in my absence. Senator Heinz.

Senator HEINZ. Mr. Chairman, thank you. Mr. Secretary and Mr. Ambassador, a number of allusions have been made to the reduction of other barriers. Will you submit to the Committee a comprehensive listing of all the Canadian barriers or market deviating practices that are not eliminated or phased out by this agreement?

Ambassador YEUTTER. We can try, Senator Heinz. It is a long list obviously for both countries, but we will try to do the best we can.

Senator HEINZ. And I have no objection if you want to put in a list for the United States as well.

Ambassador YEUTTER. We will have a hard enough time with the Canadian list, I think.

[The information appears in the appendix.]

Senator HEINZ. Just as a for instance so there is no misunderstanding, we know that cultural industries are excluded from the agreement generally, but there are various types of restrictions and kinds of effects within that subcategory of barriers that I would hope we could get.

Ambassador YEUTTER. All right.

Senator HEINZ. The ones that I am most interested in, but not exclusively interested in, are the ones that are explicitly permitted to continue by the agreement. So, maybe you could divide them into two categories.

I have a generic question, though, even without the specific information, which is: How do you propose that we bring about the elimination of those kinds of barriers?

Ambassador **Yeutter**. I would have to think category by category, Senator Heinz, so please don't hold me to this as a definitive response. The generic answer to that more-or-less generic question, though, would be a continuation of the negotiating process.

Both sides agree that we have not solved all the problems of bilateral trade between the two countries, and we intend to keep working on them.

Senator **Heinz**. Should there be or are you prepared to create any specific mechanisms other than just catch as catch can bilateral discussions?

Ambassador **Yeutter**. That is an excellent question and one that deserves a more detailed response that I would like to give you later, if I may. The only one that is specifically mentioned in the free trade arrangement itself is the intended effort to proceed on subsidies. But clearly it would be appropriate for both countries to have a systematic way of approaching the others as well, and I will try to give you a more definitive response later.

[The information appears in the appendix.]

Senator **Heinz**. One question that perhaps you can address now and perhaps later as well is this: Having legitimized the barriers that we have grandfathered—by grandfathering them—what incentives do the Canadians have now that the agreement legitimizes them to agree to any further changes in the future?

Ambassador **Yeutter**. First of all, Senator Heinz, the agreement doesn't legitimize any of them.

Senator **Heinz**. What does the grandfathering do?

Ambassador **Yeutter**. Some of these barriers may continue subsequent to January of 1989. A lot of ours will, too; but that doesn't mean that they are legitimate.

Canada can challenge our trade barriers and trade impediments under the GATT if they wish, and we can challenge Canada's under the GATT if we wish. So, we haven't legitimized anything going either direction.

Senator **Heinz**. But you would contend that grandfathering does not disadvantage our rights under the GATT?

Ambassador **Yeutter**. Absolutely not. Both countries have retained full GATT rights on all elements of their trade practices.

Senator **Heinz**. Either of you, and I guess this is more Jim Baker's area, are you prepared to tie progress on the antidumping and countervailing duty law changes that you anticipate through the working group and other mechanisms to progress on other grandfathered barriers?

Secretary **Baker**. You mean progress on the question of subsidies, Senator Heinz, as discussed earlier?

Senator **Heinz**. Will countervailing duty laws deal with subsidies that would be covered in the working group?

Secretary **Baker**. Yes.

Senator Heinz. So, I am talking about a much broader area than just subsidies. I am talking about the other areas of the list that you are going to submit.

Secretary Baker. I think you have answered your own question. They do relate to the extent——

Senator Heinz. Well, subsidies may relate, but investment restrictions are different than what the working group on countervailing duty and antidumping laws is going to be working on. The question is: Are you prepared to tie progress in these other areas to results from the working group's efforts?

Secretary Baker. It is my view, Senator Heinz, that in negotiation of this agreement, we looked at it as a whole; and therefore, we tied progress or lack thereof in one area to progress or lack thereof in the others. And there is nothing wrong with doing that; that is something that we would probably do without making any supplemental commitment here today. The answer is yes.

Senator Heinz. Thank you.

Senator Moynihan. Mr. Secretary and Mr. Ambassador, we are conscious of your time; and we don't want to keep you here all day, but I would like to ask just two brief questions and then we will have some other quick questions in the second round.

Sir, first, just a hypothetical question. We have been talking about subsidies, and clearly, Canada is a political society that has tended to do this kind of thing—looking after groups and individuals—but wouldn't a economist argue that the higher the level of subsidy within an economy, the lower will its efficiency be? The more subsidies, the less efficiency, because you take resources from an efficient, competitive industry and give them to others? Isn't that right?

Ambassador Yeutter. That is correct; and in my judgment, Senator Moynihan, that worries a lot of people in Canada.

Senator Moynihan. Shouldn't we want the Canadians to subsidize even more because our efficient industries will make their way into Canada?

Ambassador Yeutter. In an aggregate sense, Senator Moynihan, the answer is of course. With respect to the interest of individual U.S. industries, the answer may be different.

Senator Moynihan. I know, but don't we want to be able to buy cheap subsidized Canadian goods and consume them; and as a consequence of their having subsidized them, be able to sell expensive American goods even more effectively?

Ambassador Yeutter. Yes. Well, you are making some differentiations between macro and micro policy areas and appropriately so.

Senator Moynihan Called the general welfare.

Ambassador Yeutter. Yes.

Secretary Baker. You are back, Senator Moynihan, to the national economic interest, and you are quite right.

Senator Moynihan. Could I ask you just one specific? One of the breakthrough elements of the agreement is on financial services, and isn't this the first time we have an agreement on this? Could you describe the present Canadian restrictions, Mr. Secretary, on insurance companies operating in Canada and what will happen in the aftermath?

Secretary **Baker**. Senator Moynihan U.S. insurance companies will no longer be subject to something that is called the 10/25 Rule which prevents a single U.S. firm from acquiring more than 10 percent or several firms from acquiring more than 25 percent of the shares of a federally regulated Canadian financial institution. So, the bottom line is that our insurance companies can diversify into the commercial banking or securities business in Canada, and we think it is a rather substantial breakthrough.

It is one of the things I mentioned in my opening remarks when I said this agreement goes a great deal beyond being simply a tariff reduction agreement. We make significant progress with respect to banks as well and securities firms.

Senator **Moynihan**. Would you want to describe that just briefly?

Secretary **Baker**. All right. Banks today face limits on growth, capital, and market share in Canada, which are going to be removed by the free trade agreement—reduced and removed. United States banks are now going to be exempt from a 16 percent ceiling that Canada has, a limit on the domestic asset of all foreign banks.

So, total foreign bank assets today in Canada can be only 16 percent of total bank assets. Our banks will be exempt from that ceiling.

Senator **Moynihan**. So, suddenly we have a new market for financial services?

Secretary **Baker**. Significantly so, Senator Moynihan, and I think it is fair to say that the financial services industry in the United States is strongly supportive of this agreement.

Senator **Moynihan**. I think it is; and this is not just a tariff agreement. This is trade.

Secretary **Baker**. And as you quite properly pointed out, this is the first time ever, I think, that we have worked out a financial services agreement bilaterally.

Senator **Moynihan**. I thank you, Mr. Secretary and Mr. Ambassador. Senator Packwood.

Senator **Packwood**. No more questions, Mr. Chairman.

Senator **Moynihan**. Mr. Bradley and Mr. Baucus, did you want to have another round?

Senator **Baucus**. Yes, I have a few things very briefly here. I just wanted to clear up a point which we discussed earlier. I said that the agreement would allow Canada to further subsidize and would prevent the United States from countervailing against that subsidy.

When you responded that the agreement does allow the United States to countervail against any Canadian subsidy, did that refer to current law and current practices on both sides? Or did your statement also refer to changes that Canada may or may not make?

As I understand the agreement—and I would just like a clarification on this—Canada can change its laws and further subsidize an industry; but under the agreement, changes in U.S. CVD law can be reviewed by a binational panel. That is my understanding.

Ambassador **Yeutter**. No, that is not quite correct, Senator Baucus.

Senator **Baucus**. I would like to know what they can and cannot do.

Ambassador **Yeutter**. I will give you a bit of a history of that part of the negotiations.

Senator **Baucus**. We don't have a lot of time here. I would just like to know what the agreement contemplates what it provides.

Ambassador **Yeutter**. We tried to preclude changes in the countervailing duty laws and antidumping laws from affecting the spirit of the agreement, or from being incompatible with the spirit of the agreement.

Senator **Baucus**. That is right.

Ambassador **Yeutter**. That is what all this is about.

Senator **Baucus**. Right.

Ambassador **Yeutter**. But we can apply those countervailing duty laws, whatever they may be, against all Canadian subsidies.

Senator **Baucus**. Here is why I am raising the question. In the softwood lumber case for example, the earlier decision was that the United States could not enact a countervailing duty against Canadian stumpage subsidies.

Later, the Commerce Department reviewed the ruling and decided that the stumpage subsidy was countervailable.

As I read the agreement, it says the current practices are locked into stone; that is, we could not correct mistakes as we did in the softwood lumber case.

So, my question, is: If Canada subsidizes further and comes up with some ingenious way to subsidize an industry that is new and different and the United States has no CVD law provision that tries to address that new subsidy, as I understand it we could not enact a new CVD provision to offset that practice?

Ambassador **Yeutter**. No, that would not be the case, Senator Baucus. That is quite different from what the intent of those provisions are.

Senator **Baucus**. All right. Then, answer this question, please. If Canada further subsidizes some industry can the United States change its CVD law to offset that additional subsidy? And does the agreement so provide?

Ambassador **Yeutter**. The answer is—and I will stand to be corrected by my lawyers—yes, we can make changes in our CVD laws. Yes, we can make changes in our antidumping laws. But irrespective of the issue that is involved, we have to be careful about making those changes in a way that would be incompatible with the agreement itself.

In other words, the concern there is that we could use changes in the countervailing duty laws and antidumping laws—and so could Canada—to really circumvent the intent of this agreement.

Secretary **Baker**. Let me read it to you, if I might, Senator:

> The agreement also establishes a procedure for advisory panel review of amendments to United States or Canadian AD or CVD laws enacted after the FTA enters into force.
>
> The two governments will consult about an proposed amendments applicable to the other country's goods—that is AD and CVD amendments. If on country changes it AD or CVD statutes, the other government may request that a panel be established to give an advisory opinion on whether the amendment is consistent with the GAT and the free trade agreement.

> If the panel views the amendment as inconsistent with the GATT or the agreement and recommends modifications to eliminate the inconsistency, the two governments will consult to reach a solution which could include seeking remedial legislation.

Here is the key sentence, I think:

> If no agreement is reached, or remedial legislation agreed on is not enacted, the complaining government may enact a comparable amendment to its AD or CVD law or terminate the agreement upon 60 days' written notice.

So, are we free to change ours? Yes, we are.

Senator **Baucus**. We haven't got the time to explore this, but I think that does not answer my question.

Secretary **Baker**. This applies to any change, whether it is in reaction to changing subsidy practice up there or not.

Ambassador **Yeutter**. Sure.

Senator **Moynihan**. Could I suggest that if Senator Baucus were to put that in writing, we would get an answer in writing. Senator Bradley.

Senator **Bradley**. Thank you, Mr. Chairman. Isn't it correct that Canada is our largest trading partner by a rather substantial margin?

Ambassador **Yeutter**. Right.

Secretary **Baker**. Right.

Senator **Bradley**. As I understand, about $45 billion of our exports that go to Canada; $53 billion of our exports go to the whole of the EC for example. So, it gives you by a rather sizable order of magnitude the importance of that market to the U.S. economy.

Ambassador **Yeutter**. I think your numbers are a little low, Senator Bradley. They are higher.

Senator **Bradley**. They are low? Supplement them, please.

Ambassador **Yeutter**. All right. I think exports are now up close to $60 billion, if my memory serves me correctly—U.S. exports.

Senator **Bradley**. So, they exceed U.S. exports to the EC?

Ambassador **Yeutter**. I believe that is correct.

Senator **Bradley**. And yet, at the same time, we have this gigantic trade deficit. The question is: Is there a relationship between Canada being our most important trading partner and this enormous trade deficit?

It seems to me, you could make the argument that there is a relationship, because the only way you are going to be able to get the trade deficit down, or one of the ways, is to increase your export opportunities around the world. Is that not correct?

Ambassador **Yeutter**. That is correct.

Senator **Bradley**. And is it not your hope that the next round, the Uruguay Round, will be the opportunity to do that?

Ambassador **Yeutter**. We are certainly working hard in 15 different negotiating groups, as you know, Senator Bradley.

Senator **Bradley**. The Uruguay Round will present the opportunity to bring services into the multilateral framework and to take on agricultural subsidies etcetera, etcetera. Is that not correct?

Ambassador **Yeutter**. Yes. Our finest opportunity in 40 years on those topics.

Senator **Bradley**. What would the prospects be for a successful Uruguay Round if the United States-Canada free trade area was defeated?

Ambassador **YEUTTER**. It would have a very negative influence on the Uruguay Round, Senator Bradley; and if I can take a minute to embellish, I would like to.

The midterm review of the Uruguay Round, Senator Bradley—as you may know by now—is going to be held in Montreal in December. That is a session that is intended to make progress in these 15 negotiating group and establish the momentum for the final two years of the Uruguay Round.

If we were to have a rejection of the United States-Canada free trade arrangement between now and December, I really believe we might just as well cancel the midterm review; and I would say it would have an enormous adverse effect on the final 2 years of the Uruguay Round.

Senator **BRADLEY**. And so how could we possibly deal with our trade deficit?

Ambassador **YEUTTER**. We do have a major problem even though that situation is now improving; and clearly, our international competitiveness is the long-term answer to that issue. One of the principal advantages of this agreement, in my judgment, Senator Bradley, is that the synergies thereof will enhance the competitiveness of firms in both countries.

Senator **BRADLEY**. Mr. Chairman I think that sometimes we lose sight of that larger picture when we are naturally concerned about the industries of our respective States; but I think it is important to keep our eye on the larger picture as well as the specific circumstances of individual industries.

But dealing with the individual industries that have been raised today, I would just like to clarify for the record through a series of questions.

Does this free trade agreement reduce the ability, for example, of U.S. coal producers to get countervailing duty orders against Canadian subsidies if they distort trade?

Ambassador **YEUTTER**. It does not; and I might just add in 30 seconds——

Senator **BRADLEY**. No, you don't need to add anything.

Ambassador **YEUTTER**. All right. (Laughter)

I was going to answer Senator Rockefeller's question earlier.

Senator **BRADLEY**. Does it in any way limit the ability of U.S. fish producers and processors to utilize U.S. countervailing duty law?

Ambassador **YEUTTER**. It does not.

Senator **BRADLEY**. Does it in any way reduce oil and gas industries' ability to get U.S. countervailing duty orders against Canadian gas subsidies for instance?

Ambassador **YEUTTER**. It does not.

Senator **BRADLEY**. Does it in any way restrict any ability of U.S. companies to use U.S. countervailing duty laws?

Ambassador **YEUTTER**. None at all, nor antidumping laws, nor Section 201.

Senator **BRADLEY**. Would you say that it is a major breakthrough on the investment front?

Secretary **BAKER**. Absolutely.

Senator **BRADLEY**. Could you describe what you mean by that?

Secretary **BAKER**. I did a little earlier Senator Bradley when you perhaps were not here.

Senator **Bradley**. You have already done that?

Secretary **Baker**. Yes. If you would rather not take up your time, I have already put it in the record.

Senator **Bradley**. All right. Let me also ask you about the cultural grandfathering provision. Is it not true that we are allowed to grandfather certain things and even expand things; I am referring here specifically to the Jones Act?

Ambassador **Yeutter**. Oh, yes.

Senator **Bradley**. This isn't a one-way street. Isn't that correct?

Ambassador **Yeutter**. That is assuredly the case as our maritime industry has demonstrated to everyone.

Senator **Bradley**. Thank you for the clarifications.

Senator **Moynihan**. Senator Daschle, did you have a brief question?

Senator **Daschle**. Mr. Chairman, I have two brief questions.

Senator **Moynihan**. Sure.

Senator **Daschle**. I am just curious about the process, and I would like further elaboration for the record if we could, with regard to what happens if in good conscience that side or this side finds that there is some change that they believe ought to be required to the agreement? What is the process by which that difference between their side and our side is resolved in the process?

Ambassador **Yeutter**. Once the agreement has gone into effect——

Senator **Daschle**. No, prior to that time.

Ambassador **Yeutter**. Between now and January?

Senator **Daschle**. Right.

Ambassador **Yeutter**. Between now and January, we would have to renegotiate if there were a necessity to do that. I would not undertake that task with any relish in light of the fact that it took us 18 months to get where we are today.

Senator **Daschle**. You are saying there is no flexibility with regard to alteration of the agreement as it has been presented?

Ambassador **Yeutter**. There is certainly no flexibility with respect to the basic fundamentals.

Obviously, if we need some clarification or interpretation or improved understanding on both sides, that is a possibility. But we can't violate the underlying understandings.

Senator **Daschle**. Second, with regard to the trade bill that is currently in conference, there are a number of provisions, it seems to me, that seem to be in conflict; trade adjustment assistance is only one. What is the administration's position with regard to trade adjustment assistance and other provisions that may or may not be in conflict with the Canadian free trade agreement?

Ambassador **Yeutter**. I don't believe there is anything in an of those that would be in conflict with the free trade arrangement, that is, insofar as the administration of positions are concerned.

There may be some provisions over there that would conflict, and obviously, we would do everything in our power to discourage the Congress from enacting them into law.

Senator **Daschle**. It might be interesting then knowing what the administration's position is on the TAA. What is it?

Ambassador **Yeutter**. TAA does have an import fee in the present proposal, and that clearly would be violative of the FTA, and also of the GATT.

Senator **Daschle**. Does the administration oppose TAA in all cases?

Ambassador **Yeutter**. The administration opposes the import fee. We are not opposed to TAA conceptually, but as you know, we have a proposal before the Congress—the WRAP proposal—that was designed by Secretary Brock and his colleagues some months ago that we consider to be a preferable alternative to TAA.

But those issues are being articulated by Secretary McLaughlin with the conferees at the moment.

Senator **Daschle**. Thank you.

Senator **Moynihan**. Thank you, Senator. Mr. Secretary, one last question. If the Congress were to impose a tax on imported uranium, would that be a violation of this agreement?

Ambassador **Yeutter**. Yes.

Senator **Moynihan**. It would be?

Secretary **Baker**. Yes, it would.

Senator **Moynihan**. You have heard a lot of concerns. You also heard a lot of support. I don't want to presume to be beyond the knowledge of any one member of the committee, but you have a majority on this committee, sir; and you will have a majority on the Senate floor. And this historic agreement is going to become law.

The United States and Canada have been an example to the world in their agreements, and this takes that example yet further.

Can I indulge one last matter? I wish to congratulate Ambassador Murphy on this St. Patrick's Day?

(Laughter)

Senator **Moynihan**. And with that, the hearing is closed. The letters and statements will be put in the record.

[The information appears in the appendix.]

Ambassador **Yeutter**. Thank you, Senator Moynihan.

Secretary **Baker**. Thank you.

[Whereupon, at 12:45 p.m., the hearing was adjourned.]

APPENDIX

ALPHABETICAL LIST AND MATERIAL SUBMITTED

Statement of Secretary James A. Baker, III
Before The Committee on Finance
United States Senate
March 17, 1988

I am pleased to have the opportunity to speak to you today about the historic Free Trade Agreement signed by President Reagan and Canadian Prime Minister Mulroney on January 2. In particular, I would like to describe its merits and to urge your approval of this agreement.

For over a century, the United States and Canada have periodically discussed forming a special trading relationship. But our two nations seemed to take turns finding narrow interests or specious fears that prompted us to turn back. The moment was never ripe for both nations at the same time.

The United States and Canada now have a rare opportunity to strengthen our special trading relationship and to reduce substantially barriers to bilateral trade and investment. It makes geopolitical sense and common sense. As developed countries with similar industrial structures and economic concerns, we will both benefit from bilateral trade liberalization and our other trading partners around the world will benefit from our increased prosperity.

If we rise to the occasion, we will leave a lasting legacy for future generations. If we do not rise to the occasion, we will have no other opportunity to conclude such an agreement for years to come. We should not let this opportunity slip away.

In 1985, Prime Minister Mulroney courageously proposed that U.S. and Canadian trade officials examine the potential for a free trade agreement. After notifying this Committee and the Senate Finance Committee, negotiations were begun in 1986. After lengthy negotiations, and after reviewing the useful advice of a number of members of this Committee, we reached an agreement that establishes the world's largest free-trade area.

The agreement dramatically reduces barriers and establishes rules of conduct for a broad range of economic activities. As a result, it will mean greater investment opportunities for investors, larger markets and increased plant efficiency for producers, higher-paying jobs for workers and lower-priced but higher-quality goods for consumers. This is true for Americans and Canadians. Thus, by opening our markets, our economies will prosper and our goods will become more competitive internationally.

The FTA eliminates all tariffs on U.S. and Canadian products. This is in itself a major accomplishment. It will benefit many U.S. businesses, which face Canadian tariffs twice as high as U.S. tariffs. The agreement also substantially reduces other barriers between our two countries. Furthermore, it indicates where future work is needed and sets up a mechanism for achieving further liberalization. One of the greatest accomplishments of the FTA is that it will establish this process for future work and will promote U.S.-Canadian cooperation.

The Administration wants to work with Congress to develop legislation implementing this agreement. We are bringing to you a good agreement that improves the trading environment between the United States and Canada. Now we need to develop the domestic mechanism to see that the agreement works, that governmental practices are consistent with the agreement, and that the process of trade liberalization between the United States and Canada continues.

Mr. Chairman, let me address the three major reasons why I believe, in the broader context, that this agreement is in the Nation's interest.

1. The Political Economy Context

   This agreement can and should strengthen not only the GATT, but the entire world trading system and, in the process, give impetus to all regimes of free trade which are complementary to the GATT. We know the Uruguay Round is an important, but long-range effort at trade liberalization. In the meantime, the FTA reflects productive government activism that should invigorate the historical congressional notion of free trade, reawaken businesses and consumers to the gains of open trade, and present a possible basis for arrangements with other countries.

2. The FTA Breaks New Ground

   The FTA reduces a number of existing quantitative barriers and creates the opportunity to reduce others. It also breaks new ground by defining rules in the areas of services, investment, and technology, while respecting national sovereignty.

   Under the FTA, new government measures affecting services must be applied equally to each other's citizens. The accord also includes the United States' first bilateral agreement covering the financial services sector and recognizes the close link between trade and investment in the modern world. This breakthrough, which has been achieved in a short two-year period, should provide the basis for GATT provisions in these areas and offer the means by which our two countries can, in the future, negotiate on emerging issues.

3. A New Course In Trade Policy

   This agreement is part of a trade policy strategy that should reassure other nations that recognize the value of a more open-world economy.

   We need to enhance the resiliency of the trading system by promoting liberalization on a number of fronts -- multilateral, minilateral, and bilateral. If activity on one frontier of trade negotiation slows, we may be able to maintain momentum and achieve solutions worthy of imitation through other agreements. We can acknowledge the value of gradual progress, without abandoning larger efforts, such as the Uruguay Round, for which we have high hope.

   This strategy is also consistent with domestic political imperatives. Pressure to adjust U.S. trade policy must not take a negative, unilateral form.

> Trade liberalization is achievable, and we will prosper from it. We can demonstrate a hard-nosed Yankee trader realism about bargaining. If all nations are not ready, we will begin with those that are and build on that success.
>
> The Canadian-U.S. FTA could be the catalyst, at home and abroad, for a new trade policy strategy. By demonstrating that a bilateral free trade area is a viable option, we can give the next Administration an opportunity to set trade policy on a creative, positive, and pragmatic international course. Such an occurrence would be in the best traditions of this Committee. I urge you to work with us to achieve that result.

In conclusion, I wish to commend Chairman Bentsen and the Committee staff for the timeliness of today's hearing. By continuing the process for approving the agreement and enacting enabling legislation begun last month in the Ways and Means Committee, we will have ample time to work together in a truly bipartisan effort to fashion and achieve our goal of creating the largest geographical free trade zone in the world.

STATEMENT OF SENATOR DAVE DURENBERGER
U.S./CANADA FREE TRADE AGREEMENT
SENATE FINANCE COMMITTEE HEARING
MARCH 17, 1988

MR. CHAIRMAN, TODAY'S HEARING ON THE TRADE AGREEMENT BETWEEN THE UNITED STATES AND CANADA BEGINS AN IMPORTANT AND UNIQUE PROCESS FOR THIS COMMITTEE AND FOR THE CONGRESS AS A WHOLE. WE WILL SOON FACE THE IMPORTANT DECISION OF WHETHER TO APPROVE THE U.S.-CANADA AGREEMENT, OR WHETHER TO REJECT THE ENTIRE AGREEMENT.

THERE'S NO IN-BETWEEN FOR THE MEMBERS OF THIS COMMITTEE AND THE MEMBERS OF CONGRESS. WE EITHER TAKE THE AGREEMENT OR REJECT IT. AND THAT'S NOT THE TYPE OF CHOICE THAT WE, AS ELECTED LEGISLATORS, ARE USED TO MAKING.

WHEN A MINNESOTA CONSTITUENT COMES TO ME AND TELLS ME A PROBLEM HE'S HAVING THAT I CAN RESOLVE, I WILL MAKE EVERY EFFORT TO INTRODUCE A BILL, OFFER AN AMENDMENT, OR PERSUADE A BUREAUCRACY.

BUT IN THE CASE OF THE TRADE AGREEMENT BETWEEN THE UNITED STATES AND CANADA WE DO NOT HAVE THE OPTION OF OFFERING AMENDMENTS OR FORCING CHANGES THAT ADDRESS THE PROBLEMS THAT ARISE UNDER THIS AGREEMENT.

INSTEAD, EACH OF US WILL HAVE TO DETERMINE WHETHER THE OVERALL BENEFITS OF THE AGREEMENT OUTWEIGH THE DRAWBACKS WHICH COULD RESULT FROM THE AGREEMENT.

THERE ARE SEVERAL ASPECTS OF THIS AGREEMENT WHICH I BELIEVE WILL ENHANCE TRADE OPPORTUNITIES FOR MANY MINNESOTA BUSINESSES AND WILL ENSURE THAT THE CITIZENS OF MINNESOTA ARE BETTER PROTECTED AGAINST SHORT-TERM DISRUPTIONS IN THE ENERGY MARKET.

MINNESOTA IS A NEUTRAL RESOURCE STATE. WE ARE BEST AT ADDING VALUE TO THOSE RESOURCES -- A VALUE WHICH THE PEOPLE OF OTHER STATES AND NATIONS APPRECIATE.

WE'VE BEEN A NATIONAL LEADER IN THE DEVELOPMENT OF HIGH TECHNOLOGY, COMPUTER APPLICATIONS, AND MEDICAL INNOVATIONS. WE EXPORT ALL THOSE VALUABLE INNOVATIONS IN THE FORM OF PRODUCTS AND SERVICES. THIS IS THE VALUE ADDED BY OUR HUMAN RESOURCES, OUR HUGE INVESTMENT IN EDUCATION AND OUR PRODUCTIVITY.

THE AGREEMENT TO ELIMINATE ALL TARIFFS BETWEEN CANADA AND THE U.S. WILL BE ESPECIALLY BENEFICIAL TO MANY OF THE HIGH TECHNOLOGY COMPANIES LOCATED IN MY STATE, ESPECIALLY THE MANY COMPUTER AND MEDICAL EQUIPMENT COMPANIES WHO HAVE SUCCEEDED IN THE CANADIAN MARKET DESPITE TARIFFS AS HIGH AS 17 PERCENT. THESE PRODUCTS REPRESENT THE NUMBER ONE MINNESOTA EXPORT TO CANADA.

MINNESOTA'S MAIN IMPORT FROM CANADA CONSISTS OF CRUDE PETROLEUM AND NATURAL GAS. BY ELIMINATING ALL RESTRAINTS ON CANADIAN EXPORTS OF ENERGY PRODUCTS, AND BY EXEMPTING CANADIAN OIL FROM ANY FUTURE IMPORT FEES, THE AGREEMENT GOES A LONG WAY TOWARD ENHANCING MINNESOTA'S ENERGY SECURITY.

WITH REGARD TO OTHER NATIONAL RESOURCES LIKE AGRICULTURE FOREST PRODUCTS, AND MINERALS WE ARE MUCH LIKE OUR CANADIAN FRIENDS. WE PRODUCE MUCH OF VALUE, BUT THE COMPETITION FOR THOSE PRODUCTS IS INTERNAL -- AND IT'S INTERNATIONAL.

BECAUSE OF THE ADVANTAGES OF CLIMATE, DOMESTIC DEMAND, AND NATIONAL TRADE POLICY, OUR RESOURCES HAVE ALWAYS BEEN MUCH IN DEMAND, INCLUDING IN CANADA. BUT IN RECENT YEARS OUR NORTHERN NEIGHBORS HAVE DEVELOPED WAYS TO ADVANTAGE DOMESTIC PRODUCTION

WHILE AT THE SAME TIME PENETRATING OUR FREE TRADE BORDERS WITH INCREASED CANADIAN PRODUCTION AT LOWER PRICES THAN U.S. PRODUCTION.

THE AGREEMENT DOES ALMOST NOTHING THAT WOULD OPEN THE CANADIAN MARKET TO COMPETITION FROM MINNESOTA AND OTHER AMERICAN FARMERS. INDEED, IT APPEARS TO ME THAT THE AGREEMENT LEAVES IN PLACE THE HEAVILY SUBSIDIZED AND REGULATED CANADIAN AGRICULTURAL PROGRAM WHICH, IN EFFECT, PREVENTS AMERICAN AGRICULTURE FROM GAINING EVEN A FOOTHOLD IN THE CANADIAN MARKET.

THE CANADIANS HAVE STEADFASTLY REFUSED TO ELIMINATE TRANSPORTATION SUBSIDIES FOR GRAIN MOVING OUT OF THE GREAT LAKES PORTS AND IT APPEARS THAT THEY WILL MAINTAIN THEIR IMPORT LICENSING SYSTEM, WHICH EFFECTIVELY BANS THE IMPORT OF U.S. GRAIN, FOR THE FORESEEABLE FUTURE.

IT SEEMS CLEAR TO ME THAT WHEN TARIFFS ARE REMOVED ON CANADIAN WHEAT, THE FLOW OF TRADE IN THIS IMPORTANT COMMODITY WILL CONTINUE TO BE ONE-WAY -- FROM NORTH TO SOUTH. AND AS LONG AS THE CANADIANS MAINTAIN THEIR UNFAIR AND DISCRIMINATORY TARIFFS ON AMERICAN CORN, I SEE NO CHANCE FOR OUR CORN GROWERS TO GAIN BACK A REASONABLE SHARE OF THE CANADIAN MARKET.

I ALSO WANT TO EXPRESS MY CONCERN WITH THAT PART OF THE AGREEMENT WHICH ALLOWS UNLIMITED CANADIAN EXPORTS OF PROCESSED FOODS CONTAINING LESS THAN 10 PERCENT SUGAR. I AM CONCERNED THAT THIS PROVISION COULD SERVE AS A LOOPHOLE IN THE U.S. SUGAR PROGRAM THAT COULD DIRECTLY UNDERMINE THE U.S. SUGAR PROGRAM, AND INADVERTENTLY DAMAGE TRADE RELATIONS WITH OUR TRADING PARTNERS IN THE CARIBBEAN BASIN.

I WOULD ALSO NOTE THAT THE POTATO GROWERS IN MINNESOTA HAVE EXPRESSED SERIOUS CONCERN OVER THE FAILURE OF THE AGREEMENT TO ELIMINATE CANADA'S "STANDARD CONTAINER LAW" WHICH THE CANADIAN PROVINCES USE TO EFFECTIVELY PREVENT SHIPMENTS OF POTATOES INTO THE PROVINCES.

MR. CHAIRMAN, BEFORE I CAST MY VOTE ON THIS AGREEMENT, I WANT TO HEAR FROM THE ADMINISTRATION ON HOW THIS AGREEMENT WILL SERVE TO ENHANCE COMPETITIVE OPPORTUNITIES FOR THE AMERICAN FARMER. I'VE ALREADY HEARD WHAT THE CANADIAN GOVERNMENT IS TELLING ITS FARMERS.

THE CANADIAN GOVERNMENT HAS PUBLISHED THIS NICE GLOSSY BOOKLET WHICH TELLS THEIR FARMERS: "AGRICULTURAL EXPORTS TO THE UNITED STATES SHOULD CONTINUE TO GROW FASTER THAN CANADA'S OFFSHORE EXPORTS."

THE CANADIANS POINT OUT THAT AFTER THREE YEARS, "THE DECREASE IN THE U.S. TARIFF ON CANOLA OIL WILL MORE THAN OFFSET THE REMOVAL OF THE WESTERN GRAIN TRANSPORTATION ACT BENEFITS TO WEST COAST PORTS." THEY ALSO EMPHASIZE THAT THE AGREEMENT WILL INCREASE "POTENTIAL MARKETS FOR SALES OF MILLING AND PASTA WHEATS IN THE UNITED STATES UPON THE AGREEMENT COMING INTO FORCE."

AND WHAT ARE THE CANADIANS TELLING THEIR FARMERS THAT THE U.S. GAVE UP AS PART OF THIS AGREEMENT? APPARENTLY, NOT MUCH. AGAIN QUOTING FROM THE CANADIAN PUBLICATION: THE AGREEMENT WILL "HAVE NO EFFECT ON THE MILK SUPPLY MANAGEMENT SYSTEM...NO EFFECT ON PRIMARY PRODUCER RETURNS FOR CHICKEN, TURKEY AND EGGS FROM TARIFF REDUCTIONS SINCE IMPORT CONTROLS ARE MAINTAINED..."

MR. CHAIRMAN, OUR TRADING RELATIONSHIP WITH CANADA REMAINS VITALLY IMPORTANT TO BOTH COUNTRIES. YET, I THINK WE NEED SOME TRUTH-IN-LABELING WHEN IT COMES TO THIS AGREEMENT. ALTHOUGH TARIFF BARRIERS ARE REDUCED, THIS IS NOT A FREE TRADE AGREEMENT. AS LONG AS THE CANADIANS RETAIN THEIR NON-TARIFF BARRIERS ON AGRICULTURE, FILMS AND OTHER SECTORS, THIS AGREEMENT CAN ONLY BE CLASSIFIED AS A STEP IN THE DIRECTION TOWARD A FREE TRADE AGREEMENT.

WHETHER WE SHOULD APPROVE THIS AGREEMENT REMAINS AN OPEN QUESTION IN MY MIND. I LOOK FORWARD TO HEARING FROM THE ADMINISTRATION ON THE IMPORTANT ISSUES SURROUNDING THIS AGREEMENT.

gor Daily News

Business

Friday, March 4,

Canadian potato farmers to get $17.2 million in additional compensatio

By Dean Rhodes
Central Aroostook Bureau

FREDERICTON, New Brunswick — The federal government will pay Canadian potato farmers $17.2 million "to partially compensate for low potato prices to the 1985 crop."

Included will be about $7.5 million to growers in New Brunswick, Prince Edward Island and Nova Scotia who compete in Maine markets, according to Agriculture Minister John Wise.

Wise said this week the new money, to be distributed in mid-March in a stabilization program, is a supplement to about $9 million in diversion funds paid to growers in New Brunswick and Prince Edward Island for 1985.

Maine potato industry officials were quick to reply that the new funds, coupled with the diversion money, will further incline competing Maritime growers to overproduce and boost exports that compete in Maine's eastern seaboard sales centers.

Maine and Canadian agriculture officials disagreed about whether the stabilization program amounted to a subsidy.

Sen. William S. Cohen and 30 other senators this week expressed reservations about the proposed U.S.-Canadian free-trade agreement in a letter to President Reagan. The trade agreement would eventually eliminate tariffs between the two countries, but apparently would enable Canada to retain subsidies on agriculture products such as potatoes.

"While the trade pact makes progress in opening markets in some sectors," the letter said, "a number of Canadian trade barriers and subsidy programs that place U.S. industries at a disadvantage are ignored." If these are not eliminated, "the agreement may actually institutionalize these Canadian trade barriers" and impair the ability of U.S. industries to counter them, Cohen and his colleagues said.

"Certainly the stabilization program is not something that's going to put our farmers in the black in most cases," said Randall McGregor, a financial officer of Agriculture Canada. "Everyone has an interest in trying to prevent citizens from going bankrupt."

"Isn't that incredible. Too bad there's not the same interest over here," said Wayne Smith of the Maine Potato Price Stabilization Office. "We take it on the chin and they don't have to. To think, they get compensation and we don't. It's very frustrating. When we overproduce, we pay the consequences."

Payments in most provinces will be distributed [illegible] an acreage basis from data already provided, [illegible] said.

"The $17.2 million in payments will cover tab[illegible] seed and processing potatoes," Wise said. "While economic hardship caused by low potato [illegible] greatest in the Maritimes, the payment is being [illegible] on a national basis to avoid any disruptio[illegible] competitive position of provinces and to provid[illegible] treatment to all potato producers."

Wise said that based on provincial totals of mark[illegible] ed production, the $17.2 million will be dis[illegible] approximately as follows:

Prince Edward Island, $3.9 million; New [illegible] wick, $3.4 million; Quebec, $3.4 million; [illegible] million; Ontario, $2 million; Alberta, $1.7 [illegible] British Columbia, $400,000; Nova Scotia, [illegible] Saskatchewan, $200,000 and Newfoundland, [illegible]

SUBMITTED BY SENATOR GEORGE J. MITCHELL

THE TORONTO STAR, THURSDAY, FEBRUARY 18, 1988 ★

Film law to go ahead despite U.S. protests: Ottawa declares

By Martin Cohn Toronto Star

OTTAWA — Canada will not back down from its commitment to introduce its controversial film distribution policy in spite of continued American opposition to the plan, Communications Minister Flora MacDonald says.

Responding to a strong assault from influential U.S. senators, MacDonald said in an interview yesterday her "commitment to bring forward a film distribution policy is firm."

MacDonald said she "still intends to bring forward measures to ensure Canada operates as a separate distribution market and to support the role Canadian distributors must play in their own market."

However, she did not specify when the government will follow through with its long-standing promise to introduce the proposed legislation.

New powers

U.S. senators have signalled their concern over the policy by seeking wider presidential powers to retaliate against any future restrictions on film distribution once the Canada-U.S. free trade agreement comes into effect.

Six U.S. senators have written to a House of Representatives' trade committee demanding any new implementation legislation for the free trade pact include new presidential powers to impose sanctions if Canada goes ahead with its long-delayed film bill.

Ottawa's proposal would restrict U.S. studios to distribution within Canadian borders only for films they produced or for which they held world rights. It has provoked stiff opposition from American industry lobbyists, and U.S. President Ronald Reagan has taken up their cause.

The film bill still has not been tabled in the House of Commons, prompting speculation that the government is awaiting final passage of the free trade pact by Congress. Under the deal, which would begin to take effect next Jan. 1, cultural industries are exempt but the U.S. is entitled to respond with measures of "equal commercial effect" if their business interests are affected.

The Feb. 5 letter, signed by Democrat senators Alan Cranston, Pete Wilson, Donald Reigle, Max Baucus and George Mitchell as well as Repubican senator John Heinz, was made public this week.

But they appear to be unaware of the extent of American domination of Canada's film distribution industry, MacDonald said yesterday through her press secretary, Patricia Dumas.

"The film distribution sector in Canada is characterized by a fundamental inequity, whereby it is difficult to obtain recognition and treatment of Canada as a separate national market for rights," MacDonald said.

STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN
HEARING ON THE CANADA FREE TRADE AGREEMENT LEGISLATION
COMMITTEE ON FINANCE
US SENATE
MARCH 17, 1988

GOOD MORNING.

MR. CHAIRMAN, I WOULD LIKE TO TAKE THIS OPPORTUNITY TO EXPRESS MY SINCEREST CONGRATULATIONS TO SECRETARY BAKER AND AMBASSADOR YEUTTER ON THE REMARKABLE ACHIEVEMENT THAT THEY HAVE PLACED BEFORE THIS COMMITTEE AND THE CONGRESS - A FREE TRADE AGREEMENT WITH CANADA.

THIS IS AN IMPORTANT DAY. THIS IS THE FIRST HEARING CALLED BY THE FINANCE COMMITTEE TO CONSIDER THE SIGNED AGREEMENT AND THE IMPLEMENTING LEGISLATION THAT WILL BE REQUIRED TO MAKE IT EFFECTIVE.

THE TERM HISTORIC IS OVER-USED IN THE RHETORIC OF INTERNATIONAL RELATIONS - BUT THE TERM MOST CERTAINLY APPLIES HERE.

WITHOUT DOUBT, THERE ARE MEMBERS OF THIS COMMITTEE WHO WILL EXPRESS SERIOUS AND OFTEN LEGITIMATE RESERVATIONS ABOUT THE AGREEMENT THAT HAS BEEN SENT TO US FOR OUR

CONSIDERATION. I TOO HAVE SOME REMAINING CONCERNS.

HOWEVER, AS WE CRITICALLY EXAMINE THE AGREEMENT, WE SHOULD NOT LOSE PERSPECTIVE ON ITS IMPORTANCE. INDEED, THE TOTAL AGREEMENT IS IS MANY WAYS MUCH MORE SIGNIFICANT THAN THE SUM OF ITS PARTS.

THERE IS NO COUNTRY IN THE WORLD MORE IMPORTANT TO US THAN CANADA. WE SHARE THE WORLD'S LONGEST UNDEFENDED BORDER, AND A PROFOUND COMMONALITY OF GOALS AND ASPIRATIONS. NOT TO MENTION THE WORLD'S LARGEST TRADING RELATIONSHIP.

WE EXPORT MORE TO THE PROVINCE OF ONTARIO ALONE THAN WE DO TO JAPAN. OUR TWO-WAY TRADE OF $124 BILLION IN 1987 WAS ROUGHLY EQUIVALENT TO THE ENTIRE GDP OF THE NETHERLANDS, OR ONE-THIRD THE ENTIRE GDP OF CANADA.

THUS, ALTHOUGH WE ARE AS INTERDEPENDENT AS TWO NATIONS CAN BE, WE SOMETIMES OVERLOOK OUR RELATIONSHIP WITH CANADA. THIS SHOULD NOT BE. THIS RELATIONSHIP NEEDS AS MUCH ATTENTION AND WORK AS ANY OTHER - PERHAPS MORE. THE AGREEMENT BEFORE US RECOGNIZES OUR NEED TO BUILD ON THE ALREADY DEEP TIES BETWEEN OUR TWO NATIONS.

AS WE CONSIDER THIS HISTORIC AGREEMENT TODAY, ST. PATRICK'S DAY, WE MIGHT RECALL THAT IT WAS THE SHAMROCK

SUMMIT BETWEEN PRESIDENT REAGAN AND PRIME MINISTER MULRONEY EXACTLY THREE YEARS AGO WHICH INITIATED THE PROCESS THAT LED TO THIS HEARING.

IN REALITY, HOWEVER, THIS PROCESS WAS INITIATED OVER 100 YEARS AGO. DURING THE LAST CENTURY AND THIS ONE, OUR TRADING RELATIONSHIP WITH CANADA HAS BEEN A BELLWETHER OF THE GLOBAL TRADING ENVIRONMENT. WE CAN ONLY HOPE THAT THIS FREE TRADE AGREEMENT WITH CANADA WILL MEAN MORE OF THE SAME.

CONSIDER THAT IN 1854 - EVEN BEFORE THE INDEPENDENCE OF CANADA - THE GOVERNOR GENERAL OF CANADA, LORD ELGIN, AND WILLIAM L. MARCY, THE SECRETARY OF STATE UNDER PRESIDENT FILLMORE, NEGOTIATED A RECIPROCITY TREATY. (WHO SAYS THAT PRESIDENT FILLMORE, A NATIVE OF BUFFALO, DID LITTLE OF SIGNIFICANCE ?)

THE ELGIN-MARCY TREATY WAS SPARKED BY THE BRITISH DECISION TO FAVOR FREE TRADE OVER MERCANTILISM. SENATOR JOHN ADAMS DIX OF NEW YORK LED THE EFFORT FOR AN AGREEMENT WITH CANADA AND LORD ELGIN SPENT A GREAT DEAL OF TIME LAYING THE GROUNDWORK FOR THE TREATY IN NEW YORK CITY.

THE TREATY WAS RATIFIED AND WENT INTO EFFECT. HOWEVER, IN 1866, THE UNITED STATES ABROGATED, LARGELY BECAUSE OF

ANTAGONISMS SPARKED BY BRITAIN'S CONDUCT DURING THE CIVIL WAR.

NEW EFFORTS WERE MADE IN 1871. THIS TIME SECRETARY OF STATE HAMILTON FISH, AGAIN A NEW YORKER WAS LEADING THE WAY, WAS RESPONSIBLE FOR THE NEGOTIATIONS. A DRAFT TREATY FAILED TO OBTAIN SENATE INTEREST OR RATIFICATION IN 1875, AND NOT LONG THEREAFTER CANADA ADOPTED THE HIGHLY PROTECTIONIST "NATIONAL POLICY".

REJECTION OF THE PRESENT AGREEMENT BY THE CONGRESS COULD AGAIN PRECIPITATE A PROTECTIONIST BACKLASH IN CANADA. WE SHOULD RECALL THAT OUR BILATERAL COMMERCIAL RELATIONS ONLY RECENTLY EMERGED FROM A RATHER ROCKY PERIOD.

FOLLOWING THE FAILURE OF FISH'S EFFORTS, IT WAS NOT UNTIL 1911 THAT ANOTHER EFFORT WAS MADE TO IMPROVE OUR BILATERAL ECONOMIC RELATIONSHIP WITH CANADA. AN AGREEMENT WAS NEGOTITATED IN A MATTER OF WEEKS. THIS TIME THE CONGRESS WAS ENTHUSIASTIC ABOUT THE AGREEMENT - PERHAPS A BIT TOO ENTHUSIASTIC. THE SPEAKER OF THE HOUSE ANNOUNCED THAT IN HIS VIEW THE AGREEMENT WAS THE BEST WAY TO ENSURE THAT THE AMERICAN FLAG WOULD FLY OVER CANADA.

FEAR OF DOMINATION AND THE NEW RESISTANCE OF CANADIAN MANUFACTURING INDUSTRIES THAT HAD GROWN UP BEHIND THE HIGH

TARIFFS OF THE NATIONAL POLICY CAUSED THE LAURIER GOVERNMENT TO FALL OVER THE PROPOSED AGREEMENT.

THIS LESSON OF CANADIAN HISTORY ONLY SERVES TO DRAMATIZE THE POLITICAL COURAGE OF PRIME MINISTER MULRONEY IN EMBARKING UPON THE NEGOTIATIONS THAT LED TO WHAT CAN BE AN HISTORIC AGREEMENT.

BUT, AS IF THIS HISTORY WERE NOT ENOUGH, THERE IS MORE. WE MUST RECALL THAT IN THE WAKE OF THE PROTECTIONISM OF THE GREAT DEPRESSION, IT WAS CANADA AND THE UNITED STATES WHICH LED THE WAY TOWARDS RENEWED LIBERALIZATION.

THE STEPS WERE SMALL AT FIRST, TARIFF AGREEMENTS IN THE 1930S, AND A FARM IMPLEMENTS AGREEMENT DURING THE WAR.

HOWEVER, AS THE GATT SYSTEM OF OPEN TRADE EMERGED IN 1947, CANADA AND THE UNITED STATES AGAIN CONSIDERED THE POSSIBILITY OF A BROAD FREE TRADE AGREEMENT. THIS TIME THE NEGOTIATIONS WERE IN SECRET, TO AVOID THE POLITICAL SENSITIVITY IN CANADA. THEY FAILED AT THE LAST MINUTE.

BUT, THEY LEFT AN IMPORTANT LEGACY: ARTICLE XXIV OF THE GATT. THE SAME ARTICLE ON FREE TRADE AREAS THAT FORMS THE BASIS OF THIS AGREEMENT IN 1988, SOME 40 YEARS LATER. ARTICLE XXIV WAS INITIALLY DRAFTED WITH THE POSSIBILITY OF

A US-CANADIAN FREE TRADE AGREEMENT FIRMLY IN MIND.

THIS YEAR WE HAVE THE OPPORTUNITY TO RATIFY OVER A CENTURY OF EFFORT - I MOST EMPHATICALLY URGE US TO DO SO.

THIS AGREEMENT IS POSITIVE FOR CANADA AND THE UNITED STATES, AND IT IS A BOOST FOR THE WORLD TRADING SYSTEM. IT WILL ACT AS A CATALYST FOR THE URUGUAY ROUND OF GATT NEGOTIATIONS, AND IT WILL IMPROVE THE ECONOMY OF BOTH NATIONS.

ONE WORD OF CAUTION. EVEN AS WE SEEK TO EXPAND BILATERAL TRADE AND NATIONAL ECONOMIC GROWTH, WE MUST RECOGNIZE THAT SUCH DEVELOPMENTS IMPOSE COSTS ON INDIVIDUAL FIRMS AND WORKERS. ADJUSTMENTS WILL BE REQUIRED.

IT IS EQUALLY THE RESPONSIBILITY OF GOVERNMENT TO EASE SUCH ADJUSTMENTS - SO THAT THE FEW DO NOT PAY FOR THE BENEFIT OF THE MANY. I EXPECT THE ADMINISTRATION, IF IT WANTS TO SECURE A COALITION FOR OPEN TRADE, TO FOCUS ADEQUATE ATTENTION ON THE ADJUSTMENT NEEDS OF OUR CITIZENS AND TO EXPLAIN IN DETAIL HOW SUCH WILL BE ACCOMPLISHED.

NOW, LET US GET ON TO THE CONSIDERATION OF THIS HISTORIC ACHIEVEMENT.

Statement of Senator Donald W. Riegle, Jr.
Senate Finance Committee
U.S.- Canada Free Trade Agreement
March 17, 1988

More than one-third of the trade between the U.S. and Canada is related to the automotive industry. In 1987, $175.5 billion worth of motor vehicles were produced in the United States. 820,000 workers were employed in motor vehicle manufacturing in 36 states as of January of this year.

The U.S. and Canada have the largest bilateral trading relationship in the world. Michigan conducts more trade with Canada than any other American state. In fact, Michigan's business with Canada is greater than that of Japan and the United Kingdom combined!

In 1986, the U.S. had a trade deficit with Canada of $13.3 billion. Michigan's share of that deficit was 70 percent, or $9.3 billion. Michigan took in 25.4 percent of Canada's total exports or $17.5 billion. Michigan sold $8.2 billion worth of goods to Canada which was 14.4 percent of the U.S. total.

67 percent of Michigan's exports to Canada consist of auto parts and engines. 78 percent of imports into Michigan from Canada are auto-related. What does all of this mean? Simply, that Michigan's problems are a major contributing factor to the entire balance of trade with our neighbor to the north. And, because of the large majority of States which supply the auto industry -- 46 by last count, as well as the 36 states which have motor vehicle manufacturing, the automobile provisions of the Free Trade Agreement have special significance.

A healthy automotive industry insures that one of the best customers for such vital U.S. products as iron, steel and lead, computer chips, textiles and electronics will continue to support these domestic industries. If we take into account employment in the the automotive sector and all related industries, 10.7 million people -- 13.8 percent of all U.S. workers -- are dependent on this industry.

Recently, an official from the Canadian embassy contacted my office, puzzled by why the Michigan delegation was so interested in the automotive provisions of the Agreement. The answer is obvious, but it isn't only Michigan that should be concerned. The industry has a tremendous effect on the entire U.S. economy.

THE U.S. - CANADA AUTO PACT

We have been living with the result of a 23 year old agreement, the Auto Pact, which has continued protection for the Canadian auto industry long after it needed it. The bilateral trade figures tell the story -- we have had an automotive trade deficit with Canada every year since 1968, except one. The Auto Pact has been a resounding success -- for Canada.

Today, all cars manufactured or assembled in Canada enter the U.S. duty-free, so long as they meet a North American value added requirement of 50 percent. Only cars from "qualified " manufacturers -- those that meet a 60 percent Canadian value added requirement and produce one car for every car sold in Canada -- enter Canada duty free.

HOW THE FTA AFFECTS THE AUTOMOTIVE INDUSTRY

The Free Trade Agreement, is somewhat of a misnomer. For although it does eliminate tariffs over a 10 year period, it recognizes and sanctions Canadian protectionism which will have a further impact on the U.S. auto parts industry.

Specifically, there are two major problems with the agreement, as it applies to the automotive sector.

First is the Canadian program of production-based duty remission, scheduled to remain in effect until 1996 for certain foreign-owned manufacturers in Canada. Under this program, Canada grants a reduced duty on vehicles and parts imported into Canada by a manufacturer, provided that manufacturer increases the amount of Canadian value added in its assembly operations in Canada. This program discriminates against U.S. parts producers, because only the use of Canadian parts qualify the vehicle manufacturer for reduced duties on its imports. Use of U.S. parts does not.

I suggested to our negotiators that if we could not get an immediate elimination of this discriminatory practice, that we should insist on national treatment for U.S. parts producers under this program. We failed to achieve that.

That failure will mean the continuation of preferences for Canadian auto parts producers for another 7 years. It will affect the future sourcing decisions of foreign-owned vehicle manufacturers in Canada. It is widely acknowledged that, particularly in the case of Japanese manufacturers, once a parts supplier is chosen, it is a relationship of long-standing. By providing Canadian suppliers with this advantage for the next 7 years, U.S. parts producers are cut out of future opportunities to supply these plants. The program will encourage U.S. suppliers to locate in Canada. That means lost American jobs.

The second major problem with the FTA is the "Rule of Origin which specifies the criteria that a product must meet to be considered "Made In" the U.S. or Canada, if the product does not wholly originate in either country. The Rule of Origin states that 50 percent of the total direct manufacturing costs must be of U.S. and/or Canadian origin. The U.S. will use this standard in lieu of the current 50 value added standard for all imports from Canada. Canada will continue to use the "safeguard" standards for Auto Pact members, and vehicles exported to Canada from the U.S. by non-Auto Pact members would achieve duty-free status in 1996.

Under a 50% Rule of Origin, the engine and transmission, major components of an automobile, which account for signficant supplier jobs, would not have to be of U.S. or Canadian origin. Therefore, if the 50% rule stands, there will be no reason for assembly plants to become manufacturing plants, and for both foreign-owned as well as U.S.-owned companies to use as many North American parts as possible. Increasing the Rule of Origin to 60 percent would ensure that the engine or transmission is of U.S. or Canadian origin and would be in the mutual interest of parts suppliers in both countries.

I urge both the U.S. and Canada to revisit this issue in the interest of the North American automotive industry.

ZINC ALLOY

Finally, I would like to raise one other issue of great concern, that of the future of the zinc alloy industry. This is not one of the giant industries in our nation -- there are only 26 alloyers in 10 states -- but it is important, nonetheless, to nearly every product that is made of metal. The total elimination of all tariffs will put most of these companies out of business within 4 years. Although zinc alloy is in the 10 year tariff phase-out, as soon as the tariff on zinc falls below 15 percent, which will be at the end of the second year of a 10 year phase-out, Canadians will begin to export zinc alloy into the U.S. Since nearly all zinc is imported by U.S. alloyers, they will not be able to compete with alloyers with a domestic source of the raw material. I made suggestions to mitigate the damage to this industry, once it became clear that an exemption from the tariff elimination was not going to be considered, whereby a the duty on zinc would fall to 15 percent, and remain at that level until the end of the ten year period, at which point, it would be eliminated. That would have given the industry the intended 10 years to adjust, rather than the three year death sentence they now have.

I will be seeking a clarification in the safeguard section of the agreement to define "substantial cause of serious injury" in a way which will insure that this industry will be able to avail itself of a three year freeze in the tariff.

CONCLUSION

I continue to listen to constituents who have made their cases for and against this agreement. I recognize the global importance of it, and the provisions which will benefit many sectors of our economy. But, as the Senator from Michigan, the automotive sector is of special importance. I believe the national signficance of this industry merits the special attention of every one of my colleagues.

PREPARED STATEMENT OF SENATOR ROCKEFELLER

I WELCOME THIS OPPORTUNITY TO BEGIN OUR DELIBERATIONS ON THE U.S.-CANADA FREE TRADE AGREEMENT. WE HEAR A LOT OF RHETORIC ABOUT THE SO-CALLED UNIQUE NATURE OF THIS AGREEMENT. THIS IS MORE THAN JUST RHETORIC; IF THE FTA IS APPROVED BY THE UNITED STATES AND CANADA, IT WOULD BE TRULY UNPRECEDENTED. ALTHOUGH WE HAVE A FREE TRADE AGREEMENT WITH ISRAEL AND A SPECIAL RELATIONSHIP WITH THE CARIBBEAN BASIN, WE HAVE NO ARRANGEMENT THAT IS AS FAR-REACHING OR AS ECONOMICALLY SIGNIFICANT AS THIS WOULD BE.

I HAVE GIVEN A GREAT DEAL OF THOUGHT TO THIS AGREEMENT OVER THE PAST MONTHS, AND I COME INTO THESE HEARINGS WITH AN OPEN MIND. I SUPPORT THE PRINCIPLES UNDERLYING THIS AGREEMENT. A MUTUAL REDUCTION OF TRADE BARRIERS SHOULD HELP ECONOMIC GROWTH IN BOTH COUNTRIES. I NOTE THE COMMERCE DEPARTMENT HAS ESTIMATED THAT, UNDER THIS AGREEMENT, TRADE BETWEEN OUR TWO COUNTRIES WOULD INCREASE OVER A FIVE-YEAR PERIOD BY $25 BILLION, CREATING SOME 14,000 NEW JOBS IN THE MANUFACTURING SECTOR IN THE UNITED STATES. IF THESE FIGURES ARE ACCURATE, THIS WOULD, OBVIOUSLY, BE OF SUBSTANTIAL BENEFIT TO US.

FURTHERMORE, THE EXAMPLE SET BY THIS AGREEMENT SHOULD PROVIDE A STIMULUS TO THE MULTILATERAL TRADING SYSTEM AND HELP GET THINGS MOVING MORE PRODUCTIVELY AND MORE RAPIDLY IN THE URUGUAY ROUND.

WE TALK A LOT ABOUT HOW THE WORLD ECONOMY IS BECOMING INCREASINGLY INTEGRATED AND ABOUT GROWING GLOBAL INTERDEPENDENCE. THIS AGREEMENT PROVIDES SOME IMAGINATIVE NEW IDEAS THAT ILLUSTRATE THE CHANGES GOING ON IN THE INTERNATIONAL ECONOMIC SYSTEM.

ALL THAT SAID, HOWEVER, THERE ARE SEVERAL IMPORTANT ISSUES THAT MUST BE ADDRESSED SATISFACTORILY.

FIRST, BEFORE I CAN SUPPORT THE FREE TRADE AGREEMENT FULLY, I MUST BE SURE THAT IT WILL NOT HURT THE COAL INDUSTRY. MY HOUSE COLLEAGUE FROM WEST VIRGINIA, CONGRESSMAN RAHALL, CHAIRED A HEARING LAST WEEK IN HIS MINING AND NATURAL RESOURCES SUBCOMMITTEE. THE EFFECT OF THIS AGREEMENT ON THE COAL INDUSTRY IN THE UNITED STATES WAS A KEY ISSUE IN THAT HEARING. THIS SECTOR OF OUR ECONOMY IS NOT IN GOOD SHAPE. IMPROVING THE CONDITIONS IN THE COAL INDUSTRY, HELPING MAKE THE INDUSTRY MORE COMPETITIVE INTERNATIONALLY, AND EXPANDING ALTERNATIVE USES OF COAL, ARE ALL IN THE INTEREST OF WEST VIRGINIA AS WELL AS IN THE INTEREST OF THE COUNTRY AS A WHOLE. I WILL CONTINUE TO PURSUE ALL THESE AVENUES AS MY TOP PRIORITY IN THE SENATE.

MY CONCERN FOR THE COAL INDUSTRY IS WHY I AM PARTICULARLY DISTURBED ABOUT THE POSSIBILITY THAT THE INCREASED SALE OF CANADIAN ELECTRICITY IN THE UNITED STATES WILL DISPLACE STEAM COAL SALES IN THIS COUNTRY. I HAVE THE FOLLOWING QUESTIONS THAT MUST BE SATISFACTORILY ANSWERED. FIRST, CAN CANADIAN UTILITIES PRODUCE ELECTRICITY AT LOWER COSTS THAN AMERICAN UTILITIES BECAUSE OF GOVERNMENT SUBSIDIES AND OTHER ADVANTAGEOUS POLICIES? SECOND, DOES THAT FACT THAT CANADIAN UTILITIES ARE CROWN CORPORATIONS GIVE THEM AN UNFAIR ADVANTAGE BECAUSE OF THEIR SPECIAL RELATIONSHIP WITH THE GOVERNMENT, FREEDOM FROM TAX BURDENS, AND, ULTIMATELY, GOVERNMENT BACKING AND FINANCIAL GUARANTEES? THIRD, DO DIFFERING ENVIRONMENTAL REGULATIONS IN THE TWO COUNTRIES RESULT IN AN ADVANTAGE FOR THE CANADIAN UTILITIES THAT OUR UTILITIES JUST CAN'T BEAT? FINALLY, DOES THE COAL INDUSTRY IN CANADA CONFRONT FAVORABLE GOVERNMENT TAX AND REGULATORY POLICIES THAT DAMAGE AMERICAN COAL'S ABILITY TO COMPETE?

ANOTHER CONCERN I HAVE IS THE IMPACT OF THIS AGREEMENT ON THE NATURAL GAS INDUSTRY IN THE UNITED STATES. THESE ISSUES INCLUDE DIFFERENT REGULATORY REGIMES IN BOTH COUNTRIES, DIFFERENT TREATMENT IN THIS COUNTRY OF DOMESTIC GAS VERSUS CANADIAN IMPORTS, AND INCENTIVES OFFERED BY THE NATIONAL AND PROVINCIAL GOVERNMENTS IN CANADA TO THE NATURAL GAS INDUSTRY. THESE QUESTIONS MUST BE ADDRESSED ADEQUATELY.

DELIBERATION ON THE PROPOSED FREE TRADE AGREEMENT RELATES TO OUR RELATIONSHIP WITH CANADA, THE URUGUARY ROUND OF TRADE NEGOTIATIONS, AND THE GLOBAL TRADING SYSTEM. MOST IMPORTANT IS THE QUESTION OF WHAT IT WILL DO TO HELP OUR ECONOMY. I LOOK FORWARD TO HEARING FROM SECRETARY BAKER AND AMBASSADOR YEUTTER TODAY AS WE BEGIN OUR CONSIDERATION OF THE FREE TRADE AGREEMENT.

TESTIMONY OF
AMBASSADOR CLAYTON YEUTTER
BEFORE THE
COMMITTEE ON FINANCE
MARCH 17, 1988

Thank you for the opportunity to testify before you today on the U.S.-Canada Free Trade Agreement.

The formal signing of the Free Trade Agreement on January 2 by President Reagan and Prime Minister Mulroney culminated almost two years of complex, and sometimes difficult negotiations. It is all too easy, especially in politics, to use hyperbole. But it is no exaggeration to say that this is a truly historic document.

This Agreement will substantially increase trade and investment opportunities in both the U.S. and Canada. As President Reagan said, "This historic Agreement will strengthen both our economies and over time create thousands of jobs in both countries."

Trade between the United States and Canada too often is taken for granted. Our trade problems with Japan and the European Community are so much in the spotlight that most Americans still don't realize Canada is our biggest trading partner. Yet over $130 billion in goods cross our common border annually. With $60 billion in U.S. exports to Canada in 1987, Canada is also our largest and fastest growing export market.

These negotiations were characterized by hard bargaining and difficult compromises. Many will seek to identify winners and losers, but that approach is too narrow. This is a win-win Agreement. It should result in increased economic activity, higher trade levels, more jobs, and enhanced competitiveness for both the United States and Canada. The people of both countries will benefit from this Agreement, through lower prices and greater consumer choice.

The U.S.-Canada Free Trade Agreement is the most comprehensive bilateral trade agreement ever negotiated. As the world's largest trading partners we are constructing the world's largest shared market. We have submitted to the Committee today an extensive summary of the Agreement. Therefore, in my formal statement I will only highlight its main provisions.

Under the Agreement, we have provided for the elimination of all tariffs between the United States and Canada. Since Canadian tariffs are, on average, more than twice as high as comparable U.S. rates, total tariff elimination will provide significant benefits for the U.S. exporter.

For the first time since services became a major international commercial issue, two major trading partners have negotiated an agreement establishing rules for bilateral trade in services. These rules will cover scores of service sectors, such as construction, telecommunications network-based enhanced services and computer services, architecture, accounting, tourism, insurance, and engineering. Not only is this important for U.S.-Canada services trade, but it provides a concrete first step for our efforts to formulate multilateral rules for services at the GATT Uruguay Round. We also concluded the first bilateral agreement with any other country covering the financial services sector.

We are establishing much freer and more secure trade in energy. The Agreement calls for nondiscriminatory access for the United States to Canadian energy supplies and secure market access for Canadian energy exports to the United States. Our approach is market-oriented. Under the FTA the Canadian Government will not be able to impose higher prices on us than they charge Canadians. Cheaper and more secure energy supplies will make U.S. industries more competitive, both in North America and throughout the world.

Also for the first time, the United States and Canada have agreed to rules governing bilateral investment activities. The Agreement reduces the screening of U.S. investment in Canada, and moves Canada towards a more open, market-oriented investment environment. The question of how to apply countervailing duty and antidumping laws was one of the most difficult to settle. We finally agreed to retain existing national laws and procedures dealing with subsidies and dumping. But final decisions taken under those laws may be appealed to binational dispute settlement panels upon the request of either party.

There are also provisions covering automotive trade, agriculture, alcoholic beverages, customs matters, government procurement, product standards, personnel movement, and many other areas. These are all described in detail in the summary we submitted to the Committee today.

The proposed Agreement spans many sectors of our economies. Numerous U.S.industries and groups have already voiced strong support. Nonetheless, we recognize that, despite widespread enthusiasm for this Agreement, some may disagree. For some, there may be too much free trade in this Free Trade Agreement. Some special interests will see themselves as vulnerable to increased competition in a free trade area. But we should not lose sight of the overall interests of this country and the very positive effects of this Agreement. We should not be timid, afraid to try a creative approach to the future. This country was built on a willingness to accept challenges and to compete. In this dynamic, interdependent world, these qualities that built our country have never been more important. We have never settled for the status quo; this Agreement will help us move forward.

Then there are those who are disappointed because they wanted more and wanted it now. Unfortunately, some entered these negotiations with unrealistic expectations that the negotiations would cure all their ills. This Agreement is not a panacea for every ill. It will reduce, but not end, trade frictions. It will minimize, but not eliminate, trade distortions. There never has been, and likely never will be, perfectly free trade between any two independent sovereign countries. This Agreement was never intended to solve all our bilateral trade problems and should not be expected to do so. By establishing dispute resolution and consultation mechanisms, the agreement explicitly recognizes this fact. It is a vast improvement over the prevailing situation, and a bold step toward significantly freer trade between our countries. It is an important advancement over the status quo.

Failure to implement this Agreement would have serious repercussions for both countries. The United States and Canada would clearly miss out on a once-in-a-century opportunity. We would be deprived of the enormous economic gains which will come from this Agreement as well as the intangible benefits of developing an even closer relationship with our friendly neighbors to the north.

We would also lose the impetus it gives to the new GATT round. If the United States and Canada -- the two largest trading partners in the world, next door neighbors, the closest of friends and allies -- cannot liberalize their trading relationship, what hope do we have of success in Geneva?

The question on both sides of the border should be: "Will this Agreement make my country a better and more prosperous place to live a decade or a half century from now?" The objective answer to that question will be a resounding yes!

We must keep our eyes squarely on the long-range benefits for each nation as a whole. This Agreement will help both Americans and Canadians enter the 21st century more competitive and better prepared for the future.

We should approve this Agreement and then build on it in the future. It will, without doubt, be the most significant bilateral trade agreement either country has ever negotiated.

Canadian Practices Included in the 1987 National Trade Estimate Report on Foreign Trade Barriers not Eliminated or Phase out by the U.S.-Canada Free Trade Agreement:

Provincial liquor board practices affecting beer;

Horticultural import restrictions;

Poultry import quotas;

Canadian federal and provincial government procurement preferences;

Western Grain Transportation Act subsidies for east coast shipments;

Border broadcasting tax provision;

Restrictions on Canadian advertising in U.S. publications;

Data processing requirements under 1980 Banks and Bank Revision Act;

Investment entry restrictions for book publishing and distribution, film and video, audio music recordings and music in print or machine readable form;

Investment restrictions affecting Canadian-held assets valued over $C150 million;

Certain performance requirements;

Discriminatory postal rates;

Compulsory pharmaceutical patent licensing;

Preferred supplier relationship between Bell Canada and Northern Telecom.

Section 304 of the U.S.-Canada Free TRade Agreement Implementation Act of 1988 authorizes the President to enter into negotiations with the Canadian Government for the purpose of concluding an agreement or agreements to:

(1) liberalize trade in services;

(2) liberalize investment rules;

(3) improve the protection of intellectual property;

(4) increase the value requirement applied for purposes of determining whether an automotive product is treated as originating in Canada or in the U.S.;

(5) exclude from transport rates established under Canada's Western Grain Transportation Act of goods that originate in Canada and are shipped via east coast ports for consumption in the U.S.; and

(7) limit the exportation and importation of all potatoes between the U.S. and Canada.

Section 409 of that Act authorizes the President to enter into an agreement with Canada on rules applicable to trade between the U.S. and Canada that:

(1) deal with unfair pricing and government subsidization; and

(2) provide for increased discipline on subsidies.

Article 709 of the U.S.-Canada Free Trade Agreement (FTA) provides that the U.S. and Canada will consult on agricultural issues semi-annually and at such other times as they may agree.

Article 1307 of the FTA provides that the U.S. and Canada will undertake bilateral negotiations on government procurement not later than one year after the conclusion of the Uruguay Round.

Article 1503 of the FTA provides that the U.S. and Canada will consult at least once a year on facilitating the temporary entry of business persons.

Article 1704 of the FTA provides that the U.S. and Canada may request consultations at any time regarding financial services.

Article 1804 of the FTA provides that the U.S. and Canada may request consultations regarding any actual or proposed measure or any other matter that it considers affects the operation of the FTA.

Article 1907 of the FTA establishes a working group that will (1) seek to develop more effective rules and disciplines concerning the use of government subsidies and (2) seek to develop a substitute system of rules of dealing with unfair pricing and government subsidization.

COMMUNICATIONS

AMERICAN COALITION FOR TRADE EXPANSION WITH CANADA
1317 F STREET, N.W., SUITE 600, WASHINGTON, D.C. 20004
(202) 638-2121
(ACTE/CAN)

March 19, 1988

GAIL HARRISON, EXECUTIVE DIRECTOR
BRUCE WOLPE, STAFF COORDINATOR
SHERYL J. WILKERSON, STAFF COORDINATOR

Ms. Laura Wilcox
Hearing Administrator
Senate Finance Committee
Dirksen Senate Office Building
Room 205
Washington, D.C. 20515

Dear Ms. Wilcox:

I am writing on behalf of the American Coalition for Trade Expansion with Canada (ACTE-CAN) to request an opportunity to testify before the Senate Finance Committee on the U.S.-Canada Free Trade Agreement.

ACTE-CAN is a broad-based coalition over 500 U.S. businesses and business organizations which actively support the U.S.-Canada Free Trade Agreement. A copy of the membership list is attached. The Coalition would appreciate the opportunity to provide its views on the agreement, through a small panel (three people) of its members.

I appreciate your consideration of this request. You may contact me at 638-2121 or Paula Collins at the American Express Government Affairs Office, 822-6680 with your response.

Sincerely,

Gail Harrison

Gail Harrison
Executive Director

GH
Enclosure

ACTE/CAN MEMBERS
as of March 18, 1988

ABC Custom Cedar Homes, Inc.	Sonoma, CA
ADC Telecommunications	Bloomington, MN
AT&T	New York, NY
A-C Brake Co., Inc.	Louisville, KY
A.T. Cross Company	Lincoln, RI
ADAPSO	Arlington, VA
ALCOA	Pittsburgh, PA
AMCA International Corporation	Hanover, NH
Aaonton Group, Inc.	Plano, TX
Action Associates	Bloomington, MN
Aerospace Industries Association of America, Inc.	Washington, DC
Air Conditioning and Refrigeration Institute	Arlington, VA
Air Conditioning Contractors of America	Washington, DC
Alaska Quality Control & Technical Services, Ltd.	Anchorage, AK
Albert Seisler Machine Corporation	Mohnton, PA
Alderfer & Herm	Denver, CO
Allied-Signal International, Inc.	Morristown, NJ
Allis - Chalmers Corporation	West Allis, WI
Almerica Overseas, Inc.	Destin, FL
Alpha Research, Inc.	Glendale, WI
Alumax, Inc.	San Mateo, CA
Amana Refrigeration, Inc.	Amana, IA
Amatos, Inc.	Middletown, CT
Ambler Organizational Consultants, Inc.	Cherry Hill, NJ
Amerace Corporation	Hackettstown, NJ
Amerex Corporation	Trussville, AL
American Association of Exporters & Importers	New York, NY
American Association of Meat Processors	Elizabethtown, PA
American Business Conference	Washington, DC
American Cast Metals Association	Des Plaines, IL
American Council of Independent Laboratories	Washington, DC
American Electronics Association	Washington, DC
American Express Company	New York, NY
American Federation of Small Business	Chicago, IL
American Frozen Food Institute	McLean, VA
American Furniture Manufacturers Association	Washington, DC
American Gas Association	Arlington, VA
American Institute of Marine Underwriters	New York, NY
American Institute of Small Business	Minneapolis, MN
American Meat Institute	Rosslyn, VA
American Newspaper Publishers Association	Washington, DC
American Paper Institute	New York, NY
American Retail Federation	Washington, DC
American Street Corridor Business Association	Philadelphia, PA
American Trucking Association	Alexandria, VA
Amigo Sales, Inc.	Bridgeport, MI
Amoco Corporation	Chicago, IL
Archer Daniels Midland	Decatur, IL
Armtek Corporation	New Haven, CT
Arthur Andersen & Company	Chicago, IL
Arthur Young	New York NY
Artmor Plastics Corporation	Cumberland, MD
Associated Builders & Contractors	Washington, DC
Associated Lumber Industries, Inc.	Carbondale, IL
Association of Collegiate Entrepreneurs	Wichita, KS
Atlantic Council Canada Group	Washington, DC
Augat, Inc.	Mansfield, MA
Austad's	Sioux Falls, SD
Avon Products, Inc.	New York, NY
B.F. Goodrich Company	Akron, OH
BP America, Inc.	Cleveland, OH
Babcock & Wilcox Company	New Orleans, LA
Baker Service Tools	Houston, TX
Baldor Electric Company	Fort Smith, AR
Ball Corporation	Muncie, IN
Ball Publishing Company	Arcanum, OH
Bank of America	San Francisco, CA
Barnes Group, Inc.	Bristol, CT

Barrett Trailers, Inc.	Oklahoma City, OK
Barrios Technology, Inc.	Houston, TX
Barrister Information Systems Corporation	Buffalo, NY
Bearings, Inc.	Cleveland, OH
Beckman Instruments, Inc.	Fullerton, CA
Bemis Manufacturing Company	Sheboygan Falls, WI
Bend Photo Center, Inc.	Bend, OR
Bernard R. Horn Company	Folcroft, PA
Better Business Bureau of Maricopa County	Mesa, AZ
Blair Cartage, Inc.	Newbury, OH
Blatt's Bakery	Put-in-Bay, OH
Boeing Company	Seattle, WA
Boise Cascade Corporation	Boise, ID
Bowes Manufacturing, Inc.	Solon, OH
Bristol-Myers Company	New York, NY
Brodart Company	Williamsport, PA
Brooklyn Union Gas Company	Brooklyn, NY
Brown Capital Management, Inc.	Baltimore, MD
Brown Deer Bank	Brown Deer, WI
Brown-Forman Corporation	Louisville, KY
Buffalo Forge Company	Buffalo, NY
CF Industries	Long Grove, IL
CPC International, Inc.	Englewood Cliffs, NJ
Carbis Walker & Associates	Butler, PA
Cargill, Incorporated	Minneapolis, MN
Carolina Freight Carriers Corporation	Cherryville, NC
Cass County Abstract Company	Fargo, ND
Castite Systems, Inc.	Cleveland, OH
Caterpillar, Inc.	Peoria, IL
Champion International Corporation	Stamford, CT
Charles Beck Machine Corporation	King of Prussia, PA
Charles F. McAfee Architects Engineer Planners	Wichita, KS
Charter Medical Corporation	Macon, GA
Chattahoochee Business Group	Marietta, GA
Chicago Barter Corporation	Lombard, IL
Chicone Groves	Orlando, FL
Christy's	Ellwood City, PA
Chrysler Corporation	Highland Park, MI
Citicorp	New York, NY
Citizens for a Sound Economy	Washington, DC
Citizens for the U.S.-Canada Free Trade Pact	Washington, DC
Clark Seals, Ltd.	Tulsa, OK
Claseman Management Services	St. Paul, MN
Climatic Control Company, Inc.	Milwaukee, WI
Coalition of Service Industries, Inc.	Washington, DC
Coca Cola Company	Atlanta, GA
Colborn's	Billings, MT
Coleco Industries, Inc.	West Hartford, CT
Columbia Chocolates By Mordens	Astoria, OR
Comdisco, Inc.	Rosemont, IL
Commercial Design Consultants	Milwaukee, WI
Committee for Small Business Exports	Aspen, CO
Comp-U-Card International, Inc.	Stamford, CT
Competition Cams, Inc.	Memphis, TN
Competitive Enterprise Institute	Washington, DC
Computer & Business Equipment Manufacturers Association	Washington, DC
Computer & Communications Industry Association	Washington, DC
Conco Systems, Inc.	Verona, PA
Concord Engineering, Inc.	Richmond, CA
Concord, Inc.	Fargo, ND
Consolidated Freightways, Inc.	Menlo Park, CA
Contact Systems Corporation	New York, NY
Control Data Corporation	Minneapolis, MN
Cooper Industries, Inc.	Houston, TX
Coopers & Lybrand	New York, NY
Copyright Clearance Center	Salem, MA
Creative Management Concepts	Reading, PA
Curtin Insurance Agency, Inc.	Cambridge, MA
Curtis Circulation Company	Hackensack, NJ
Custom Engineering, Inc.	Englewood, CO
D&M Consulting & Brokerage, Inc.	Marshfield, WI

D-M-E Company	Madison Heights, MI
Dawg Luvers & Company	Jesup, GA
Deering Lumber, Inc.	Biddeford, ME
Design & Manufacturing Corporation	Connersville, IN
Di-Rec Services	Dallas, TX
Distilled Spirits Council of the U.S., Inc	Washington, DC
Dollar Power Discount Store	San Francisco, CA
Dolphin Photo Center, Inc.	Bend, OR
Donaldson Company, Inc.	Minneapolis, MN
Dow Chemical, U.S.A.	Midland, MI
Dow Corning Corporation	Midland, MI
Dunkin' Donuts Incorporated	Randolph, MA
E. H. Curtin Insurance Agency	Cambridge, MA
E. I. du Pont de Nemours & Company	Wilmington, DE
E. J. Kearney & Company	Portland, ME
E. R. Clarke Associates, Inc.	Lake Forest, IL
Eastern Building Material Dealers Assoc.	Media, PA
Eastman Kodak Company	Rochester, NY
ERA Steel Construction Corp.	White Plains, NY
Echlin Corp.	Branford, CT
Eclipse, Inc.	Rockford, IL
Econocorp, Inc.	Randolph, MA
Elbert Bradshaw Enterprises	Carmel, IN
Electro Rent Corporation	Santa Monica, CA
Emergency Committee for American Trade	Washington, DC
Enerco Technical Products, Inc.	Cleveland, OH
Ernst & Whinney	New York, NY
Esselte Business Systems, Inc.	Garden City, NY
Event Specialists, Inc.	Anchorage, AK
Executive Report	Pittsburgh, PA
FMC Corporation	Chicago, IL
Fairchild Industries	Chantilly, VA
Fila Associates	Miami, FL
First Bank System	Minneapolis, MN
Flambeau Corporation	Baraboo, WI
Fleetwood Enterprises, Inc.	Riverside,CA
Flint Industrial Services	Albany, GA
Focus Electronics, Inc.	Brooklyn, NY
Ford Motor Company	Dearborn, MI
Fort Howard Paper Company	Green Bay, WI
Fraser Paper, Limited	Madawaska, ME
Fred Jones Manufacturing Company	Oklahoma City, OK
Fuqua Industries, Inc.	Atlanta, GA
G.D. Searle & Company	Chicago, IL
Garrett Corporation	Torrance, CA
Gates Lear Jet Corporation	Tucson, AZ
Gatherings South, Inc.	Greenville, SC
Gene Boyer & Associates, Inc.	Beaver Dam, WI
Genentech, Inc.	S. San Francisco, CA
General Dynamics Corporation	St. Louis, MO
General Electric Company	Fairfield, CT
General Motors Corporation	Detroit, MI
General Public Utilities Corporation	Parsippany, NJ
Georgia-Pacific Corporation	Atlanta, GA
Gerber Industries, Inc.	St. Peters, MO
Glowacki Everhardt & Association, Inc.	Toledo, OH
Goldman Sachs	New York, NY
Goodyear Tire & Rubber Company	Akron, OH
Gorman-Rupp Company	Waterbury, CT
Grand Trunk Western	Detroit, MI
Greater Newark Chamber of Commerce	Newark, NJ
Gregory Manufacturing Co., Inc.	Jackson, MS
Griffin Agency	Prospect, PA
Grit Publishing Company	Williamsport, PA
Grumman Corporation	Bethpage, NY
HMA International Business Development, Ltd.	Greensboro, NC
Half Price Books, Inc.	Dallas, TX
Hamilton Beach, Inc.	Waterbury, CT
Heat - Timer Corporation	Fairfield, NJ
Helene Curtis Industries	Chicago, IL
Hercules, Inc.	Wilmington, DE
Hercules Engines, Inc.	Canton, OH
Herrmidifier Company, Inc.	Lancaster, PA

Hevi-Haul International Limited	Butler, WI
Hexagon Architecture Group Limited	Wyncote, PA
High-Tech International	Beltsville, MD
Hill & Associates	Madison, WI
Hoffman Air & Filtration Systems	East Syracuse, NY
Holiday Corporation	Memphis, TN
Holloman Child Development Centers	Hampton, VA
Honda North America	Torrance, CA
Honeywell, Inc.	Minneapolis, MN
Horizon Resources Corporation	York, PA
Hotwatt, Inc.	Danvers, MA
Hunt Tractor, Inc.	Louisville, KY
ITT Corporation	New York, NY
ITBR, Inc.	Austin, TX
Illinois Lumber & Material Dealers Assoc.	Springfield, IL
Illinois Small Businessmen's Assoc.	Chicago, IL
Image Express	Southfield, MI
Imperial Schrade Corporation	New York, NY
Impressive Advance & Litho, Inc.	Waynesboro, VA
Incom International, Inc.	Pittsburgh, PA
Independent Bakers Association	Washington, DC
Industrial Commission of Arizona	Mesa, AZ
Industrial Heating Equipment Association	Arlington, VA
Informerific/Hexter & Associates	Cleveland, OH
Intel Corporation	Santa Clara, CA
International Business Aviation Council, Ltd.	Washington, DC
International Business Machines Corp.	Armonk, NY
International Data Corporation	McLean, VA
International Franchise Association	Washington, DC
Interstate Electronics Corporation	Anaheim, CA
Interstate Natural Gas Assoc. of America	Washington, DC
JGP Marketing Group International, Inc.	Livonia, MI
JLG Industries, Inc.	McConnellsburg, PA
Jack O'Connor's Quality Beef 'N Seafood	Bridgewater, NJ
Johnson & Higgins	New York, NY
Johnson & Johnson	New Brunswick, NJ
Jon Holtshopple & Associates	Madison, WI
Judith E. Meador	St. Louis, MO
Justin Boot Company	Fort Worth, TX
Katy Industries, Inc.	Elgin, IL
Kentucky Manufacturing Company	Louisville, KY
Kerr-Hays Company	Ligonier, PA
Kimball Physics, Inc.	Wilton, NH
Kingsbury Machine Tool Corporation	Keene, NH
Knape & Vogt Manufacturing Company	Grand Rapids, MI
Knoll International Holdings, Inc.	New York, NY
Koch Industries	Wichita, KS
Koester Corporation	Defiance, OH
L.R. Nelson Corporation	Peoria, IL
LC Technologies, Inc.	Fairfax, VA
Lafarge Corporation	Washington, DC
Lamanite Enterprises Corporation	Clearfield, UT
Lancaster Laboratories, Inc.	Lancaster, PA
Laramy Products Company	Lyndonville, VT
Lavelle Aircraft Company	Philadelphia, PA
Lee, Theisen & Stegall	Phoenix, AZ
Lennox Industries, Inc.	Dallas, TX
Lewis Ranches	Portland, OR
Lin-Art, Ltd.	Arlington Heights, IL
Litton Industries	Woodland Hills, CA
Longyear Company	Minneapolis, MN
Louisiana Association of Business and Industry	Baton Rouge, LA
Louisiana Retailers Association	Baton Rouge, LA
Louisville Plate Glass Company	Louisville, KY
Lowe's Companies, Inc.	North Wilkesboro, NC
Luken's General Industries, Inc.	St. Louis, MO
Luken's, Inc.	Coatesville, PA
Lumbermen Associates, Inc.	Philadelphia, PA
M. Brown & Sons, Inc.	Bremen, IN
M. S. Hansson, Inc.	Boulder, CO
MDB, Inc.	Pittsburgh, PA
Mack Trucks Inc.	Allentown, PA
Macmillan, Inc.	New York, NY

Maidenform, Inc.	New York, NY
Maine Machine Products Company	South Paris, ME
Maine Wild Blueberry Company	Machias, ME
Manufactured Buildings Components, Corp.	East Lansing, MI
Manufacturers Hanover Trust Co.	New York, NY
Marco Wood Products	Walled Lake, MI
Margaret Coleman Associates	Hinsdale, IL
Marketing Communications Systems	Portland, OR
Markets Abroad, Inc.	Miami, FL
Marriott Corporation	Washington, DC
Marsh & McLennan, Inc.	New York, NY
Marshall & Associates	Topsfield, MA
Mary Kay Cosmetics	Dallas, TX
Mattel, Inc.	Hawthorne, CA
Mayflower Transit, Inc.	Indianapolis, IN
Maytag Corporation	Newton, IA
McIntosh, Inc.	Norfolk, NE
McLaurin Parking Company	Raleigh, NC
McMinnville City Sanitary Service, Inc.	McMinnville, OR
Measurex Corporation	Cupertino, CA
Mel Boldt & Association	Mt. Prospect, IL
Mentholatum Company	Buffalo, NY
Merck & Co., Inc.	Rahway, NJ
Metal Treating Institute	Jacksonville Beach, FL
Metropolitan Life Insurance Company	New York, NY
Mid-Continent Cold Storage Company	Omaha, NE
Milbar Corporation	Chagrin Falls, OH
Miller Picking Corporation	Johnsontown, PA
Minnesota Mining & Manufacturing Company (3M)	St. Paul, MN
Mobil Oil Corporation	New York, NY
MonArk Boat Company	Monticello, AR
Monsanto Company	St. Louis, MO
Morgan Guarantee	New York, NY
Morton Buildings, Inc.	Morton, IL
Mosbacher Energy Company	Houston, TX
Mosler International	Hamilton, OH
Motor Vehicle Manufacturers Association	Detroit, MI
Murphy Oil Corporation	El Dorado, AR
N. J. Chapter - National Association of Women Business Owners	Cherry Hill, NJ
NVRyan	McLean, VA
Nalco Chemical Company	Naperville, IL
National American Wholesale Grocers Association	Falls Church, VA
National Association of Beverage Importers, Inc.	Washington, DC
National Association of Home Builders	Washington, DC
National Association of Manufacturers	Washington, DC
National Association of Photographic Manufacturers	Harrison, NY
National Association of Printing Ink Manufacturers	Harrison, NY
National Association of Women Business Owners	Chicago, IL
National Federation of Independent Business	Washington, DC
National Foreign Trade Council	New York, NY
National Frame Builders Association	Kansas, City, MO
National Gypsum Company	Dallas, TX
National Hispanic Business Association	Chamblee, GA
National Lumber & Building Materials Dealers Association	Washington, DC
National Machine Tool Builders Association	McLean, VA
National Retail Merchants Association	Washington, DC
National Small Business United	Washington, DC
National Starch & Chemical Corporation	Bridgewater, NJ
National-American Wholesalers Grocers' Association	Washington, DC
Nestle Enterprises, Inc.	Solon, OH
New England Electric System	Westborough, MA
New Jersey Small Business Unity Council	Little Silver, NJ
Newlyweds Foods, Inc.	Chicago, IL
Nicholson, Inc.	Helena, MT
North Haven Gardens	Dallas, TX
Northeastern Retail Lumbermen's Association	Rochester, NY

Northland Corporation	Greenville, MI
Northwest River Supplies, Inc.	Moscow, ID
O'Brien Communications	Del Mar, CA
Oakes & McClelland Company	Greenville, PA
Oakwood Markets, Inc.	Kingsport, TN
Occidental Chemical Corporation	Dallas, TX
Ogilvy & Mather International	New York NY
Oneida Ltd.	Oneida, NY
PC Etcetera	New York, NY
PII Affiliates, Ltd.	Manchester, PA
PLM Companies, Inc.	San Francisco, CA
PMI/Taylor Advertising	Columbus, OH
Pacer Systems, Inc.	Billerica, MA
Pacific Interstate Company	Los Angeles, CA
Pacific Northwest International Trade Association	Bellvue, WA
Panhandle Eastern Corporation	Houston, TX
Paragon Electric Company, Inc.	Two Rivers, WI
Parlette Tire Co., Inc.	Erie, PA
Peat Marwick Main & Company	New York, NY
Pennwalt Corporation	Philadelphia, PA
People to People Associates	Lexington, MA
Pepsi-Cola International	Somers, NY
Perham Egg, Inc.	Perham, MN
Perlis Truckstops	Cordele, GA
Pet Incorporated	St. Louis, MO
Pfizer, Inc.	New York, NY
Pharmaceutical Manufacturers Association	Washington, DC
Philips Industries, Inc.	Dayton, OH
Picken Parts, Inc.	Fresno, CA
Pillsbury Company	Minneapolis, MN
Plabell Rubber Products, Inc.	Toledo, OH
Plasma Energy Corporation	Raleigh, NC
Plasco, Inc.	Woburn, MA
Ply*Gem Industries, Inc.	New York, NY
Polaris Industries, Inc.	Minneapolis, MN
Polaroid Corporation	Cambridge, MA
Powermax, Inc.	Columbus, OH
Pratt & Lambert	Buffalo, NY
Pre-Paid Legal Services	Ada, OK
Precision Twist Drill Company	Crystal Lake, IL
Prinova Co., Inc.	San Francisco, CA
Printing Industries of America	Arlington, VA
Procter & Gamble	Cincinnati, OH
Product Development Corporation	Little Rock, AR
Professional Service Corporation	Green Bay, WI
Professional Wealth Management, Inc.	Asheville, NC
Professional Women in Construction & Allied Industries	White Plains, NY
Progressive Management Enterprises, Ltd.	St. Louis, MO
Pulp & Paper Machinery Manufacturers' Association	Washington, DC
Queen Carpet Corporation	Dalton, GA
Queen City Industries, Inc.	Piqua, OH
Quick, Finan & Associates, Inc.	Washington, DC
Quill Corporation	Lincolnshire, IL
R. R. Accessories, Inc.	Boston, MA
R. R. Donnelley & Sons Company	Chicago, IL
RJR Nabisco	Atlanta, GA
Radio KDNO	Delano, CA
Ramada, Inc.	Phoenix, AZ
Raytheon Company	Lexington, MA
Recognition Equipment, Inc.	Dallas, TX
Recon/Optical, Inc.	Barrington, IL
Rexnord, Inc.	Brookfield, WI
Rheem Manufacturing Company	New York, NY
Ridenour & Associates	Chicago, IL
Riordan, Crivello, Carlson & Menthkowski	Milwaukee, WI
Roll-o-Matic, Inc.	Kansas City, MO
Rooney, Plotkin & Willey	Providence, RI
Rorer International Pharmaceuticals	Fort Washington, PA
Rotron Engineering Company, Inc.	Woburn, MA

Rudolph Beaver, Inc.	Waltham, MA
Rural Gravuce Services, Inc.	Madison, WI
Russ Berrie and Company, Inc.	Oakland, NJ
S. C. Johnson & Son, Inc.	Racine, WI
SNC Manufacturing Company	Oshkosh, WI
Sabre Yachts	South Casco, ME
Safeway Stores, Inc.	Oakland, CA
Samsonite Corporation	Denver, CO
Sandmeyer Steel Company	Philadelphia, PA
Sargent-Welch Scientific Company	Skokie, IL
Scientific-Atlanta, Inc.	Atlanta, GA
Scott Paper Company	Philadelphia, PA
Sears, Roebuck and Company	Chicago, IL
Shaw Mudge & Company	Stamford, CT
Shell Oil Company	Houston, TX
Sheridan & Fritz, P.C.	Harrisburg, PA
Siliconix, Inc.	Santa Clara, CA
Simplex Time Recorder Company	Gardner, MA
Singer, Lewak, Greenbaum & Goldstein	Los Angeles, CA
Smada, Inc.	Phoenix, AZ
Small Business Foundation of America	Boston, MA
Small Business Hawaii, Inc.	Honolulu, HI
Small Business United of Missouri	St. Louis, MO
Smaller Business Associates of New England	Boston, MA
Smaller Manufacturers Council	Pittsburgh, PA
Smith Barney, Harris, Upham & Co., Inc.	New York, NY
Smith Rollinson	Alexandria, VA
Snyder General Corporation	Dallas, TX
Southern Connecticut Gas Company	Bridgeport, CT
Spacesaver Corporation	Fort Atkinson, WI
Specialized Carriers & Rigging Association	Alexandria, VA
Square One, Inc.	Madison, WI
Squibb Corporation	Princeton, NJ
Sta-Rite Overseas Corporation	Milwaukee, WI
Standard-Thomson Corporation	Waltham, MA
Stemco, Inc. Truck Products	Longview, TX
Steiner Shipyard, Inc.	Bayou La Batre, AL
Stiegler, Inc.	Fargo, ND
Stone & Webster Engineering Corporation	Boston, MA
Storage Technology Corporation	Louisville, CO
Stripling-Blake Building Lumber Co., Inc	Austin, TX
Sun Electric Corporation	Crystal Lake, IL
Superior Technical Ceramics Corporation	St. Albans, VT
Syntex Corporation	Palo Alto, CA
T&H Building Supply	Redwood City, CA
TAPJAC Home Centers	Carthage, MO
TRW, Inc.	Cleveland, OH
TVI Creative Specialists	Washington, DC
TXI Industries	Dallas, TX
Tandem Computers Incorporated	Cupertino, CA
Tandy Brands, Inc.	Fort Worth, TX
Tandy Corporation	Fort Worth, TX
Tanner Systems, Inc.	Sauk Rapids, MN
Tatum Enterprises	Honolulu, HI
Technivest, Inc.	South Bend, IN
Ted Grob Sales, Inc.	Grafton, WI
Tenneco Gas Pipeline Group	Houston, TX
Termiflex Corporation	Merrimack, NH
Terry Neese Personnel Services	Oklahoma City, OK
Texas Industries, Inc.	Dallas, TX
Textron, Inc.	Providence, RI
The Afro/Hispanic-American Chambers of Commerce	Bossier City, LA
The Americas Society	New York, NY
The Andersons	Maumee, OH
The Black & Decker Corporation	Towson, MD
The Buffalo News	Buffalo, NY
The Calvert Gallery	Washington, DC
The Carlton Group	Richmond, VA
The Collectors Guild Ltd.	Wilmington, NC
The Firestone Tire & Rubber	Akron, OH
The First Boston Corporation	New York, NY
The Free Press Media Group	Hendersonville, TN

The Fur Vault, Inc.	New York, NY
The Harodite Finishing Co., Inc.	North Dighton, MA
The Hartz Mountain Corporation	Harrison, NJ
The Hoover Company	North Canton, OH
The Krughoff Company	Naperville, IL
The Moser Bag & Paper Company	Cleveland, OH
The National Grange	Washington, DC
The New England Council, Inc.	Boston, MA
The Pillsbury Company	Minneapolis, MN
The Price Company	San Diego, CA
The Principal Financial Group	Des Moines, IA
The Quillen Group	Groton, CT
The Singer Company	Stamford, CT
The Stackpole Corporation	Boston, MA
The Telemarketing Company	Chicago, IL
The United Illuminating Company	New Haven, CT
The Upjohn Company	Kalamazoo, MI
The Valspar Corporation	Minneapolis, MN
The Will-Burt Company	Orrville, OH
Thomas J. Seitz Co., Inc.	Racine, WI
Tingley Systems, Inc.	San Antonio, FL
Toledo Harbor Warehousing, Inc.	Toledo, OH
Touche-Ross	New York, NY
Tracor, Inc.	Austin, TX
Trail King Industries, Inc.	Mitchell, SD
TransTech, Inc.	East McKeesport, PA
Tri-M Corporation	Kennett Square, PA
Triangle Research Development Corp.	Research Triangle Park, NC
Trinity Industries, Inc.	Dallas, TX
Trouble Shooters, Inc.	Omaha, NE
Truck Trailer Manufacturers Association	Alexandria, VA
Trucking Services, Inc.	Dearborn Heights, MI
U.S. Axle, Inc.	Pottstown, PA
U.S. Bearings & Drives of CA, Inc.	Santa Clara, CA
U.S. Council for International Business	Washington, DC
USG Corporation	Chicago, IL
Ultrasystems, Inc.	Irvine, CA
Unilever United States, Inc.	New York, NY
United Fresh Fruits & Vegetables Association	Alexandria, VA
United Illuminating Company	New Haven, CT
United Industries, Inc.	Wichita, KS
Vanport Manufacturing, Inc.	Boring, OR
Village Green	Midland, MI
Virco Manufacturing Corporation	Torrance, CA
Vocational Rehabilitation Associates, Inc.	Eugene, OR
W.H. Brady Company	Milwaukee, WI
W.R. Grace & Company	New York, NY
WIS, Inc.	Toledo, OH
Wainoco Oil Corporation	Houston, TX
Waldorf Corporation	St. Paul, MN
Wayer Corporation	Landover, MD
Western Publishing Company, Inc.	Racine, WI
Weyerhaeuser Company	Tacoma, WA
Whale Scientific, Inc.	Commerce City, CO
Whirlpool Corporation	Benton Harbor, MI
White Plains Iron, Inc.	New York, NY
Wholesale Florists & Florist Suppliers of America	Arlington, VA
William A. Price & Associates	Wheaton, IL
William H. Taylor & Company, Inc.	Allentown, PA
Wingspread Corporation	New York, NY
Women Entrepreneurs	Lincolnwood, IL
Women Featherbone Company	Gainesville, GA
Woodhead Industries, Inc.	Northbrook, IL
ZinYeast, Inc.	Marshfield, WI

SUBMITTED STATEMENT OF DR. RUDOLPH OSWALD, DIRECTOR OF ECONOMIC RESEARCH AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS BEFORE THE SENATE FINANCE COMMITTEE ON THE U.S.-CANADA FREE TRADE AGREEMENT

March 17, 1988

Mr. Chairman, members of the committee, the AFL-CIO appreciates this opportunity to present its views on the proposed U.S.-Canada Free Trade Agreement. The Federation believes that this agreement, signed by President Reagan and Prime Minister Mulroney on January 2, 1988, will do little to solve the serious trade problems that exist between the U.S. and Canada, and may in fact make them worse. The AFL-CIO joins the Canadian labor movement in opposing this agreement because we share the view that governments must play a positive role in managing relations between countries and that increased reliance on so-called "market forces" will not necessarily promote economic growth and equity.

Generally speaking, there is little in the agreement that will benefit American workers. It does not address the huge imbalances in trade in goods between the U.S. and Canada, nor the large exchange rate differential which has contributed importantly to those imbalances. It's silence on the issue of exchange rates is particularly significant, and raises real questions concerning the validity of the entire exercise. How can American industry and agriculture hope to compete on a fair and equitable basis when current exchange rates have the effect of conferring a 35% cost advantage on Canadian producers? The exchange rate advantage of the Canadians operates much like a tariff on the Canadian side of the ledger, raising the price of U.S. goods by 28%. But the exchange rate differential is worse than a tariff on the export of Canadian goods to the U.S. It cheapens their goods by 28% in the U.S. market, giving them a substantial advantage over U.S. goods. The tragic experience of the U.S. over the last eight years has amply demonstrated the importance of exchange rates in international trade, and the failure of the agreement to address this factor is, alone, sufficient grounds for Senate disapproval.

The agreement is based upon the assumption that "free trade" between the countries will help lead the U.S. towards a general trade equilibrium, helping the U.S. in eliminating its huge trade deficits. In 1987, the U.S. suffered a $171 billion trade deficit, worldwide, and a $12 billion trade deficit with Canada, under one reckoning and $18 billion under another reckoning - thus accounting for 7% or 11% of the U.S. trade deficit. Nothing in this agreement assures that this persistent imbalance in trade between the U.S. and Canada will improve.

The agreement itself, while moving in the direction of "market" determined trade does not by any measure establish free trade. Significant inequities in trade practices will remain, even after the ten year transition period. What has been negotiated, is not a free trade agreement, but a new bilateral trade arrangement, and the Senate should judge the proposal on the basis of fairness, reciprocity, and national interest. Regrettably, the agreement falls far short of meeting these goals. A whole series of Canadian practices that discriminate against U.S. production have been grandfathered. By prohibiting the introduction of new measures to regulate or manage trade, Canadian advantage has been solidified.

It appears, that the trade-off for the continuation of discriminatory Canadian practices is greater access for U.S. investment and services. Even here, however, reciprocal treatment has not been achieved, and the U.S. has forfeited the right to employ measures that may prove necessary in the future. The AFL-CIO has long been concerned over the priority given to negotiations on investment and trade in services. The principal trade problem facing the U.S. is undeniably the massive trade deficits occurring in the manufacturing sector and the resultant loss of employment. Emphasis on "liberalizing" trade in services and investment flows will have little impact on this central issue, and may in fact contribute to the deterioration of the domestic manufacturing sector if discriminatory practices of other countries in the goods area are left intact as the price for reductions in barriers to services and investment. This problem is regrettably demonstrated by the telecommunications section of the agreement. While the U.S. has gained greater access for telecommunications services, Canadian procurement policies that discriminate against telecommunication goods produced in the U.S. remain in place. Further, what may appear to some as "barriers" to service trade on international investment are in fact proper and even essential social and economic policies in both the U.S. and foreign economies. While unrestricted flows of services and investment may be important to certain corporate interests, this does not make them significant for the economy as a whole.

The AFL-CIO is also concerned that this proposed agreement will be used as a blueprint for bilateral negotiations with other countries as well as the Uruguay

Round of negotiations under the General Agreement on Tariffs and Trade (GATT). Recent pronouncements by President Reagan and Vice President Bush concerning a free trade agreement with Mexico have served to underscore that worry. The U.S. can ill afford to continue to ignore the damage done by one sided trade to the domestic manufacturing sector.

The AFL-CIO Executive Council in a statement adopted February 19, 1988 (Attached) outlined objections to a number of specific provisions of the agreement including the following:

- The separate procedures established for Canada regarding trade remedy law are not only unwise in and of themselves, but establish an extremely bad precedent for negotiations with other countries. These provisions have the potential of limiting the ability of the U.S. to take action under the countervailing duty and antidumping statutes, as well as Sec. 301 and the escape clause. Not only is there little assurance that Canadian subsidies (many of which are provincial) will end, but many discriminatory Canadian practices have been essentially endorsed.

- The existing inequities between the U.S. and Canadian implementation of the 1965 Auto Pact are retained, while the growing use of imported parts is not sufficiently discouraged. The production and Canadian value-added requirements imposed on Canadian auto producers are continued, while the U.S. has no similar safeguards. The North American value required for duty-free entry into the U.S. is too low to prevent erosion in the North American content of vehicles produced by U.S. companies, and would not significantly increase the North American value of vehicles assembled by foreign-owned "transplant" operations.

- Tariff rate advantages and duty remission programs will not be eliminated for up to ten years thereby encouraging Canadian production and discouraging U.S. exports. The U.S. has agreed to phase out the recently enacted customs-user fee for Canada, which only amounts to .17%.

- Additional U.S. Federal government procurement is opened for Canadian bidding with a value six times greater than the amount allowed for U.S. producers. The U.S. needs to strengthen, not weaken, buy American laws and regulations.

- U.S. immigration law is weakened by substantially easing the ability of "business and professional" persons to temporarily enter the U.S. For those covered, the agreement eliminates prior approval procedures, petitions, or labor certification tests.

- A wide range of Canadian industries and agricultural commodities would continue to receive protection, or favorable differential treatment. They include autos, telecommunications, wine and beer, grain, poultry and eggs, fish, plywood, and so-called cultural industries.

The AFL-CIO believes that this agreement is totally inadequate to the task of solving the trade problems that exist between the U.S. and Canada. The agreement does not promote U.S. employment and production which would reduce the large U.S. trade deficit with Canada. At the very least, America should demand reciprocal treatment in trade. This agreement falls far short of even that modest goal, and should be rejected by Congress.

Attachment

Statement by the AFL-CIO Executive Council

on

U.S.-Canada Free Trade Agreement

February 19, 1988
Bal Harbour, FL

The U.S.-Canada Free Trade Agreement signed on January 2, 1988, and awaiting Congressional consideration, will do little to solve the serious trade problems between the U.S. and Canada and may in fact make them worse. The AFL-CIO joins our brothers and sisters in the Canadian labor movement in opposing this agreement. We share the view that governments must play a positive role in managing relations between countries and reject the notion that "market forces" alone will promote economic growth and equity.

Specifically, the agreement does not address:

* The huge U.S. imbalances in trade of goods with Canada;
* the large exchange rate differential.

While moving in the direction of "market" determined trade, the agreement does not, by any measure, establish free trade. Significant inequities in trade practices will remain, even after the ten-year transition period.

The AFL-CIO particularly objects to provisions in the agreement that would:

* Establish separate procedures for U.S.-Canada trade;
* Maintain Canadian tariff advantages for ten years;
* Open additional federal government procurement to Canadian bidding;
* Permit continued Canadian protection of a variety of industries;
* Reduce U.S. energy independence by permitting the export of 50,000 barrels per day of Alaskan oil and prohibit controls on the import or export of electrical power;
* Weaken U.S. immigration law.
* Retain favorable treatment in auto trade for Canada;
* Permit Canadian advantage for certain agricultural commodities.
* Disadvantage certain U.S. mineral industries.

The AFL-CIO calls upon Congress to reject the U.S.-Canada Free Trade Agreement.

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STATEMENT BY

THE AMERICAN PAPER INSTITUTE

ON

THE U.S.-CANADA FREE TRADE AREA AGREEMENT

MARCH 21, 1988

This statement on the free trade agreement with Canada expresses the views of the American Paper Institute (API), the national trade association representing companies with more than 90% of U.S. pulp, paper and paperboard production.

The American Paper Institute strongly supports the recently signed U.S.-Canada Free Trade Area Agreement (FTA) for several reasons:

-- Canada is the largest U.S. export market for paper, paperboard and converted products. Currently, as much as 70 percent of U.S. paper industry exports to Canada are dutiable. In contrast, only ten percent of the Canadian paper industry's exports to the U.S. are dutiable. At the present time, U.S. tariffs on paper and paperboard products are much lower than those of Canada. The highest U.S. tariff is 5.8%, as against 17.5% for Canada. Indeed, the level of Canadian tariffs is two to three times greater than U.S. duties on most paper and paperboard products. (See attached table for a comparison of duty rates on selected paper industry products.)

-- For years, API, on behalf of the U.S. paper industry, has urged the U.S. government to obtain reduction of Canada's high tariff rates in order to put U.S.-Canadian trade in paper industry products on a more equitable basis. The FTA would achieve this objective. The agreement provides that tariffs on all paper industry products are to be phased out by both countries in five equal cuts, starting on January 1, 1989, and ending with the last cut on January 1, 1993. This will enhance our industry's export opportunities in Canada.

-- The paper industry also believes that the removal of U.S. duties will not substantially change the flow of paper industry products from Canada.

-- The health of the U.S. paper industry depends on the strength of the U.S. economy. We believe that the U.S.-Canada agreement will enhance economic activity in both countries. The stronger U.S. economy, which we believe will result from the agreement, will help the U.S. to be more competitive globally and will benefit the U.S. paper industry.

-- An open market between the two countries is expected to elevate trade across the industrial spectrum to higher levels and, thus, to lift the level of U.S. exports of many products. Such enhanced trade activity will positively affect not only the paper industry's direct exports but its domestic business as well because of the substantial contribution of "indirect" exports to our industry's economic health. "Indirect" exports are domestic sales of paper or paperboard which are realized because of export demand for the products of another industry. Examples of indirect exports of the paper industry include: packaging that is used either when goods go overseas or when component parts are shipped domestically to a producer who will in turn export the final product; component parts made of paper and used in export products such as filters and insulation papers; printing/writing paper used in printed matter that is exported; and printing/writing paper used in export documentation. The FTA also provides for the removal of tariffs on printed matter and this may also increase domestic sales of the U.S. paper industry.

-- Liberalization of the investment regime in Canada can help U.S. paper companies that either have or contemplate direct investments in Canada.

For the reasons stated above, API believes that the U.S.-Canada FTA will be good for the country and good for our industry. The U.S. paper industry urges you to support adoption of implementing legislation for the FTA.

Comparison of Duty Rates on Selected Paper Industry Products

- 1988 -

Product	United States	Canada
Wood pulp	0	0
Newsprint	0	0
Printing paper (uncoated)	0	6.5% (1)
Printing paper (coated)	2.5%	6.5% (2)
Writing paper (uncoated)	2.4%	6.5%
Writing paper, cut-to-size	3.2%	8%
Sack kraft	0	0
Tissue stock	0 - 3.5%	6.5 - 9.2%
Tissue and toweling articles (including diapers)	0 - 5.3%	10.2%
Sanitary napkins and tampons	5.3%	17.5%
Special industrial papers	0 - 5.6%	0 - 12.5%
Kraft linerboard	0	6.5%
Bleached paperboard	0	6.5%
Milk carton blanks	3%	10.2%
Recycled paperboard	0	9.2%

(1) Canada has a zero tariff on uncoated groundwood printing paper.

(2) Canada has a 2.5% tariff on coated groundwood printing paper.

Source: American Paper Institute
March 21, 1988

STATEMENT ON BEHALF OF
AMERICAN WIRE PRODUCERS ASSOCIATION
BY ROBERT T. CHANCLER, MANAGING DIRECTOR

HEARING ON THE UNITED STATES-CANADA FREE TRADE AGREEMENT LEGISLATION BEFORE THE COMMITTEE ON FINANCE, U.S. SENATE

MARCH 1, 1988

On behalf of the American Wire Producers Association, I respectfully submit our views on the United States-Canada Free Trade Agreement ("FTA").

The American Wire Producers Association is a national trade organization which represents independent American-owned and -operated manufacturers of carbon, alloy, and stainless steel wire and wire products. Our membership also includes integrated and mini-mill producers of steel wire rod, wire drawers related to domestic rod producers, wire drawers related to foreign steel companies, and suppliers of machinery and other equipment to our industry. Member companies of the Association operate more than 110 plants in 27 states, and they employ over 20,000 American workers. Our members are efficient producers with modern facilities and a productive labor force. They supply more than 70 percent of the domestic market for steel wire and wire products, including round and flat wire, barbed wire, threaded bars, welded wire fabric, wire rope and strand, nails, staples, chain, coat hangers, concrete reinforcing mesh, and chain link fence.

The Association is concerned that the goals and benefits of the FTA may be undermined by certain imbalances in current trade relations between the United States and Canada. We urge that these imbalances be redressed prior to or concurrently with the implementation of the FTA.

First, the imbalance in the currency exchange rate between the United States dollar and its Canadian counterpart bestows an automatic and unfair price advantage on Canadian exporters of steel wire and wire products.[1] On February 26, 1988, for example, the spot value of the Canadian dollar was only 79.15 U.S. cents. (The Washington Post, February 27, 1988, p. B3.) Although American wire producers are efficient and competitive in the world marketplace, it will be virtually impossible to compensate for such a radical price discrepancy caused by the depressed value of the Canadian dollar.

Second, the implementation of the FTA may undermine the objectives of the program of voluntary restraint arrangements ("VRA's") negotiated with other steel-exporting countries. Third-country producers of wire rod -- the semi-finished steel product from which wire and wire products are manufactured -- will have an incentive to ship their excess tonnages to Canadian wire drawers, who are not affected by VRA limitations and who will have duty-free access to the American market for wire products. Further, Canadian wire drawers will be able to purchase wire rod unburdened by any import limitations, whereas our industry will continue to be confronted by the price increases and periodic shortages which are the inevitable consequences of VRA restrictions. Thus, the availability of third-country production and prices will confer an unfair advantage on Canadian producers and exporters of wire and wire products.

Third, the rules of origin contained in Chapter Three of the FTA provide in Section XV of Annex 301.2 that steel wire products manufactured in Canada from imported steel wire rod will be eligible for duty-free treatment under the FTA. Tables A through D, attached hereto, show that Canada already enjoys an overwhelming balance-of-trade surplus with the United States on carbon, alloy, and stainless steel wire and wire products. The wire products are listed under Items 3 through 7. The rules of origin will surely exacerbate the existing imbalance in trade on steel wire products by encouraging the shipment of steel wire rod from third countries into Canada for processing or conversion into wire products for eventual shipment to the United States on a duty-free basis. We respectfully urge that the rules of origin for steel wire products be amended to conform with the rules of origin for steel wire so that wire products manufactured from imported steel wire rod will not be entitled to duty-free treatment under the FTA.

Fourth, the Association notes that Canada started the FTA negotiations with an unfair advantage and that the schedule for staged reductions in import duty rates perpetuates this advantage. That is, Canada generally imposes a much higher level of duty rates on imported wire and wire products than does the United States. The respective rates of the two countries are listed on Table E, attached hereto. The schedule for staged tariff rate reductions should be accelerated for Canada so that the higher Canadian rates are first reduced to the lower United States rates before mutual staged reductions take place.

We respectfully urge the Committee on Finance to require that the legislation implementing the FTA correct these imbalances prior to or concurrently with the implementation of the FTA. As noted above, the members of the Association support efforts which will lead to the free and fair exchange of goods between the United States and our trading partners, including Canada. At the same time, however, our members are concerned about the imbalances in current bilateral trade relations with Canada, and they ask that these imbalances be redressed as an indispensable part of the creation of a free trade regime between our two countries.

Respectfully submitted,

Robert T. Chancler
Managing Director

TABLE A

BALANCE OF UNITED STATES-CANADA TRADE
IN
CARBON, ALLOY AND STAINLESS STEEL
WIRE AND WIRE PRODUCTS

1984

	Product Category	U.S. Exports to Canada ($US 1,000)	U.S. Imports from Canada ($US 1,000)	Surplus (+) Deficit (-) ($US 1,000)
1.	Carbon & Alloy Wire	10,283	99,801	-89,518
2.	Stainless Wire	2,352	5,478	- 3,126
3.	Nails	8,618	45,792	-37,174
4.	Wire Rope	2,400	6,936	- 4,536
5.	Wire Strand	925	4,400	- 3,475
6.	Welded Wire Mesh for Concrete Reinforcement	217	2,937	- 2,720
7.	Wire Cloth, Etc.	544	2,763	- 2,219
	TOTAL	$25,339	$168,107	-$142,768

SOURCE: Statistics compiled by the American Iron and Steel Institute.

TABLE B

BALANCE OF UNITED STATES-CANADA TRADE
IN
CARBON, ALLOY AND STAINLESS STEEL
WIRE AND WIRE PRODUCTS

1985

	Product Category	U.S. Exports to Canada ($US 1,000)	U.S. Imports from Canada ($US 1,000)	Surplus (+) Deficit (-) ($US 1,000)
1.	Carbon & Alloy Wire	9,759	97,711	-87,952
2.	Stainless Wire	1,839	4,643	- 2,804
3.	Nails	8,346	50,424	-42,078
4.	Wire Rope	1,928	7,506	- 5,578
5.	Wire Strand	721	3,774	- 3,053
6.	Welded Wire Mesh for Concrete Reinforcement	248	3,748	- 3,500
7.	Wire Cloth, Etc.	724	3,836	- 3,112
	TOTAL	$23,565	$171,642	-$148,077

SOURCE: Statistics compiled by the American Iron and Steel Institute.

TABLE C

BALANCE OF UNITED STATES-CANADA TRADE IN CARBON, ALLOY AND STAINLESS STEEL WIRE AND WIRE PRODUCTS

1986

	Product Category	U.S. Exports to Canada ($US 1,000)	U.S. Imports from Canada ($US 1,000)	Surplus (+) Deficit (-) ($US 1,000)
1.	Carbon & Alloy Wire	$ 9,232	108,774	-99,542
2.	Stainless Wire	1,815	6,594	- 4,779
3.	Nails	13,488	62,594	-49,106
4.	Wire Rope	1,455	5,620	- 4,165
5.	Wire Strand	858	3,842	- 2,984
6.	Welded Wire Mesh for Concrete Reinforcement	120	3,400	- 3,280
7.	Wire Cloth, Etc.	653	7,505	- 6,852
	TOTAL	$27,621	$198,329	-$170,708

SOURCE: Statistics compiled by the American Iron and Steel Institute.

TABLE D

BALANCE OF UNITED STATES-CANADA TRADE IN CARBON, ALLOY AND STAINLESS STEEL WIRE AND WIRE PRODUCTS

January - October 1987

	Product Category	U.S. Exports to Canada ($US 1,000)	U.S. Imports from Canada ($US 1,000)	Surplus (+) Deficit (-) ($US 1,000)
1.	Carbon & Alloy Wire	11,086	87,834	-76,748
2.	Stainless Wire	1,709	5,755	- 4,046
3.	Nails	14,178	51,844	-37,666
4.	Wire Rope	2,024	8,270	- 6,246
5.	Wire Strand	1,282	3,664	- 2,382
6.	Welded Wire Mesh for Concrete Reinforcement	347	2,457	- 2,110
7.	Wire Cloth, Etc.	751	5,884	- 5,133
	TOTAL	$31,377	$165,708	-$134,331

SOURCE: Statistics compiled by the American Iron and Steel Institute.

TABLE E

COMPARISON OF DUTY RATES ON SELECTED CARBON STEEL WIRE AND WIRE PRODUCTS, UNITED STATES AND CANADA

	Product	United States (Column 1 Rate)	Canada (M.F.N. Rate)
1.	Barbed Wire	Free	7.2%
2.	Wire, flat, not coated	3.2 - 5.1%	7.3%
3.	Wire, flat, coated	4.2 - 5.2%	7.3%
4.	Wire, round, coated and not coated	1.5 - 5.3%	5.8 - 7.3%
5.	Wire strand	4.9%	9.9%
6.	Wire rope, uncoated	3.5 - 4.0%	7.2 - 9.9%

Source: Tariff Schedules for the United States Annotated (1987), Schedule 6, Subparts 2B and 3B; McGoldrick's Canadian Customs and Excise Tariffs (1985 ed.).

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[1] These articles are classified generally under Item Number 609.20 through 609.76, 642.02 through 642.97, and 646.02 through 646.79 of the Tariff Schedules of the United States Annotated (1987), and under headings 7217, 7223, 7229, 7312 through 7315, and 7317 of the proposed Harmonized Tariff Schedule of the United States (1988).

TESTIMONY BY
DEXTER F. BAKER
CHAIRMAN OF THE BOARD AND PRESIDENT,
AIR PRODUCTS AND CHEMICALS, INC.
ALLENTOWN, PENNSYLVANIA 18195
22 MARCH 1988

I am Dexter F. Baker, Chairman of the Board of Directors, Chief Executive Officer and President of Air Products and Chemicals, Inc. My written testimony before the United States Senate's Committee on Finance concerns the United States-Canada Free Trade Agreement.

The recently-signed Free Trade Agreement which both houses of the Congress will be considering later this year does not give U.S. industry all that it needs. Nevertheless, it is a singular document which, even in its current form, will provide synergistic benefits to both sides of the world's greatest trading partnership. Initially, the Free Trade Agreement's balance of benefits will be more disadvantageous to some sectors of the U.S. economy than to others. Later, that imbalance may be smoothed as the agreement takes hold. The question for those who will be initially disadvantaged by the Free Trade Agreement, or whose trans-border problems will not be eased, is whether the Free Trade Agreement's ultimate benefits will be worth the wait.

I believe the Congress should ratify the Free Trade Agreement. We probably will not have another opportunity this century to forge such a trade pact with Canada, if we fail to ratify the Free Trade Agreement in 1988. Besides the economic benefits gained from the Free Trade Agreement, it will set a useful precedent for our Uruguay Round negotiations and will serve notice to other GATT members that the United States is willing to negotiate bilateral economic alliances which may, by their nature, become increasingly important if the GATT as a whole cannot be improved.

I have referred to shortcomings of the Free Trade Agreement as it now stands. Although it addresses most concerns about energy access, tariff elimination and freedom of investment, it remains wanting in such areas as protection of intellectual property rights and the curtailing of subsidies. Perhaps its greatest shortcoming is its failure to redress the subsidies problem. Certainly direct and indirect subsidies exist in both countries. A subsidy, be it an outright cash grant, a rebate on energy rates, tax forgiveness, or provision of free or low-cost land and manufacturing facilities, is a distortion of trade, an artificial shifting of benefits from workers and taxpayers of one country to those of another.

Canada is not a mirror image of the United States. Its economic and social agendas differ markedly from our own. It is a country with a small domestic market next to one with a large one, a country with bountiful supplies of energy and raw materials far in excess of its own needs. Consequently, Canada sometimes subsidizes its products and production facilities to achieve its ends. When a large share of subsidy-driven output is dedicated to export markets, the interests of our own workers, investors, and taxpayers are weakened.

My company, Air Products and Chemicals, Inc., faces the prospect of competing with such subsidized products. Briefly, the subsidy concerns a $22 million liquid hydrogen plant at Magog, Quebec which will be built by the U.S.-based subsidiary of a European industrial gases producer. Liquid hydrogen manufacture is both capital and power intensive. We believe this plant will benefit from a $4.8 million direct government grant, reportedly to be sourced equally from the federal and provincial governments. In addition, it may further benefit from favorable power rates provided by the state-owned utility.

The capital subsidy program to which I referred was offered under the sponsorship of the Quebec government's Ministry of Industry. This program lapsed at or about the end of calendar year 1986, but the beneficiary remained eligible because it had filed a request for subsidy prior to the expiration date. The bottom line is that a Canadian plant which will export much of its production to the United States was endowed with a 20 per cent capital cost advantage even before construction began.

In addition to that cash grant, we believe that Hydro Quebec, the local utility, offers very favorable power rates to large regional users. These rate offerings differ from project to project, but may include as large a discount as 50% during the early years of a project. In later years, the project's operators may have to pay back this discount, either as a premium power rate or as a percentage of the plant's direct profit. The variability of these rate discounts and their uneven timing casts uncertainty as to whether they are true subsidies. However, lower power rates at a project's onset can improve startup phase economics when the plant is not fully loaded. Since Hydro Quebec is owned by the Quebec provincial government, favorable power rates are yet another level of government support to a major export project.

There is no large liquid hydrogen market in Quebec. A similar plant that was just completed in Quebec will export about 70 per cent of its output to the United States. These plants are principally mechanisms to export cheap hydro-power in contained form. It is particularly nettlesome to Air Products to face a fictitious cost advantage at the same time our government has negotiated a free trade agreement with the subsidizers. As long as such subsidies cannot be countervailable without proof of significant injury to a U.S. party, U.S. trade remedies offer little help. Therefore, while we didn't expect this Free Trade Agreement to undo a long history of subsidies, we were disappointed that it didn't address them at all.

The signing of a Free Trade Agreement is only the beginning of the process. Congress' approval of the Free Trade Agreement, if it does approve, should not be the final stroke. I hope that Congress will declare its sense that the executive branch should continue to negotiate with Canada to align the two countries' trade remedies and dispute settlement processes and to curtail subsidies. In fact, the Free Trade Agreement commits both parties to develop a substitute system of bilateral rules for antidumping and countervailing duties within five years (with a possible two year extension). But it holds no similar hope for the curtailment of subsidies.

Trade remedies such as antidumping findings and countervailing duties, are surgical dressing that cover wounds created by subsidies. Trade remedies, no matter how well-crafted, can not mitigate the trade-distorting effects of subsidy-driven exports. Two economic partners who are committed to forming a more open trade alliance should be able to define, curtail or eliminate the most blatant of these.

The ratification of this Free Trade Agreement presents a unique opportunity for both sides to mutually solve the complex problem of subsidies. The five-to-seven year period during which both sides are obligated to negotiate an alignment of our trade remedies should also be used to negotiate which subsidies are acceptable and which are actionable under law. We also need to reexamine the need to extend the benefit of an injury test to subsidy beneficiaries in advanced economies, to reduce the degree of injury which will trigger an executive branch response, and to make threat of injury a more precisely defined actionable cause for retaliation.

Therefore, I hope that the Congress will couch its approval of the Free Trade Agreement in strong, clear language which will make its success dependent not only on the development of mutually satisfactory trade remedies, but also on the restriction of subsidy-driven exports.

STATEMENT OF
JACK SHEINKMAN, PRESIDENT
AMALGAMATED CLOTHING AND TEXTILE WORKERS
UNION, AFL-CIO

TO THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

IN OPPOSITION TO
THE UNITED STATES-CANADA FREE TRADE AGREEMENT

INTRODUCTION

The U.S.-Canada Free Trade Agreement hurts workers on both sides of the border, despite the exaggerated optimism of our governmental leaders. While the idea sounds good in the abstract, the agreement negotiated by the Reagan Administration and being presented to Congress has so many problems and flaws that we must conclude that we are better off without it than with it.

Our union represents 282,000 members, including 30,000 Canadian members, who work mostly in the clothing and textile industries. We also have a significant number who work in other manufacturing industries affected by this agreement. No additional jobs will be created for our members. Some jobs will move North and some South in the various product areas of the textile and apparel industry, but in sum there will be no increase in the total; in fact, there will be a decrease.

The major consequence of this agreement will be to provide an incentive for imports from elsewhere to flood into both countries to take advantage of an enlarged market and of the inability of Customs to properly monitor the trade flows across our huge border. The existing quota agreements of both countries will be both more fully filled and more highly circumvented. We are also very concerned that the precedents set by this agreement will be extended to other countries or multilaterally through the current round of GATT negotiations.

Our nation has serious trade problems which is just stating the obvious. What bothers our union is whether this free trade agreement and its precedents will contribute toward reducing the continued hemorrhaging of our national wealth through the trade deficit and enhance our long term international competitiveness. The Administration has already spoken about negotiating free trade agreements with Mexico, the ASEAN countries, even Japan. Our union has contracts with numerous companies that have plants on both sides of the U.S.-Canada border and we have always worked closely with our Canadian members to insure that wages and working conditions are not askewed in favor of one side over the other. This is true even with many nonunionized companies -- a basic equality of labor market competitive conditions. But this certainly does not hold for other countries being considered for free trade agreements.

The Canadian Free Trade Agreement does not add to increased U.S. international competitiveness. The addition of a market of 20 million more people provides no additional economics of scale nor greater competition-created efficiencies. Most of that has already occurred through our existing trading relationship. But several new distortions have been added in this agreement that will prove harmful to American interests and add to our trade deficit.

You will be receiving testimony from the AFL-CIO detailing a number of inequities in this agreement. Our union concurs with their essential point that this agreement represents a loss of control and sovereignty over our basic trade laws governing subsidy, dumping, Section 301 unfair trade practices and Section 201 import relief. Our union is opposed to a system which makes final decisions affecting our member's livelihood removed completely from any necessity of accountability and from control of their own elected representatives. And if this sytem were to be extended further in other bilateral agreements or multilaterally through the Uruguay GATT trade round negotiations, we predict enormous difficulties and many undesirable consequences for U.S. workers.

For us in the textile and apparel industry, this precedent takes on enlarged proportions than for most others. The current Multifiber Arrangement (MFA) expires in 1991 and there is no assurance its regime will be continued, even in modified form. Thus we are vitually concerned about what future actions we could potentially take under Article 19 of GATT or any of our domestic trade laws to seek restrain from overwhelming or unfairly traded imports.

The U.S. textile and apparel industry is strongly affect by many other parts of this agreement.

I. Bigger Market Attracts More Imports

The U.S. already takes in a disproportinately high share of the developing world's exports of apparel products despite our quota agreements. The most current data show the U.S. receives 59 percent of developing country apparel exports, more than double the EEC and Japanese intake combined! (EEC receives 22.7 percent and Japan 5.6 percent of world exports.) Canada likewise takes in a disproportinate share of world exports. By creating a single market between the U.S. and Canada there is an even greater incentive created to concentrate world exports toward our market.

All major textile and apparel markets throughout the world are protected from imports to a greater or lesser degree, MFA, or no MFA. The U.S. is certainly less protected than most others. By combining the U.S. and Canada into a single market, and with the current Administration's policy to substantially expand apparel import quotas in the bilateral agreements it is negotiating, developing country exports will be even more heavily focused and concentrated on our market.

II. Transhipment and Fraud Will Increase

The textile and apparel rules of origin under this free trade agreement are so complex and unenforceable that unscrupulous importers will have very little problem undermining the quota restraint programs in either country. The U.S. Customs Service is already overwhelmed in efforts to enforce existing regulations. It admits to physically inspecting only 1% of all textile and apparel shipments that are entered. To now add a tariff-rate quota in both directions, while necessary for the industry, will make the job for Customs just that much more impossible. Importers will take advantage of quota agreement shortcomings in either country and tranship across the border. The penalties for fraud or mislabeling are so small relative to the potential monetary gain as to make them almost inconsequential.

III. No Implementation Provisions Are Set Forth

Neither in the free trade agreement nor in any legislation thus far introduced has any arrangement been made for interpreting or implementating the basic sections of the agreement. For example, Canada can send to the U.S. 50 million square yard equivalents of apparel made from fabrics produced in a third country at the reduced FTA duty rates. If these imports are concentrated or overloaded in one or a few market segments, entire sections of the U.S. apparel industry could be destroyed. Authority must be lodged somewhere to make and enforce regulations on how the agreement is to function, with the opportunity of having input into the setting of interpretation and regulation.

The new Canadian textile and apparel remission scheme discussed below raises the additional problem of how we police the third country duty free Canadian imports of shirts, blouses and outerwear apparel. We question how this program is congruent with apparel rules of origin in the agreement and how Customs will keep tabs on these items when re-exported to the U.S. Certainly an administrative nightmare has been instantly created.

IV: Duty Remission Scheme On Imported Fabrics and Some Apparel Into Canada

A new issue affecting the basic equality of undertakings in this agreement has suddenly arisen. The Canadian government has just announced a $63 million duty remission and duty reduction program on third country imported fabric used in apparel production subsequently exported to the U.S. (and elsewhere). This program gives a clear competitive advantage and direct export subsidy to Canadian apparel manufacturers that completely undermines the basic premise of a free trade agreement: competition to be on true free market conditions without governmental induced trade distorting practices undertaken by either side. Since a duty remission program is not available to American manufacturers the proverbial level playing field is strongly tilted in favor of the Canadians.

While the text of the agreement published last December allows such a subsidy program to be introduced by June of this year, we still feel we were blind-sided and is an indication of bad faith by the Canadian government. It makes us wonder how many other ways the agreement equity can be undermined by cleverness and loopholes.

From our perspective, this U.S.-Canada free trade agreement is symbolic of the general policy of sacrificing manufacturing industries - especially labor intensive ones - for presumed gains in services and investment. We strongly question whether the value-added in the new jobs created even approximates that of the jobs that are being lost. We ask where will the million American and thousands of Canadian apparel workers find alternative employment, given their demographic, social and educational handicaps?

We think the Administration and the Congress ought to be spending its efforts in the trade area seeking to reduce the enormous trade deficit rather than negotiating agreements that may add even more to that deficit.

TESTIMONY OF

A.G.W. BIDDLE

PRESIDENT

COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION

ON

U.S.-CANADA FREE TRADE AGREEMENT

MARCH 21, 1988

Mr. Chairman, committee members, I thank you for allowing the Computer & Communications Industry Association (CCIA) to submit testimony on this critical, historic agreement between the United States and Canada, and we appreciate your willingness to consider our position.

The Free Trade Agreement with Canada promises substantial benefits to our industry and historic momentum to the free trade movement. We are compelled to offer testimony because the agreement exemplifies much of what our association has fought for in our fifteen years of existence. We are especially excited about the opportunities for substantial, continental economic growth that FTA should provide.

CCIA is an international trade association composed of manufacturers and providers of computer, information processing and telecommunications products and services. Our members produce and sell semiconductors, computers, peripherals, software, and telecommunications systems and services. CCIA members cover the information industry playing field and, collectively, generate in excess of $90 billion in annual revenues.

A central tenet of CCIA is the nurturing of a competitive global business environment, not only for the benefit of our industry but for all industries. In the computer and communications industry, this environment requires fair international trade, vigorous telecommunications competition, fair and open government procurement opportunities and increased availability of, and access to, growth capital. To CCIA, the real strength of the Free Trade Agreement between the United States and Canada is that it improves the business climate in all of these areas, not just in trade. FTA will mean wider telecommunications competition, more open procurement policies and stable investment opportunities for our members and other U.S. companies in Canada.

The overall agreement, though, could be better. We would have liked the FTA to be a breakthrough in the area of intellectual property rights — a precedent and framework for multilateral agreement at the Uruguay Round on copyright protection issues. But instead, both sides reiterated a commitment to an intellectual property agreement at GATT. We also wanted the Canadians to remove all data processing restrictions, but some provincial barriers were retained. Regardless of the shortfalls, however, we believe the FTA is an important step towards a freer, stronger world economy.

TARIFFS

The centerpiece of FTA is the removal of tariffs: some in 1989, others phased-out by 1994 or 1999. The Canadian Government has long been enamored of tariffs, and even though U.S. sales of computer equipment to Canada top $1 billion annually, U.S. companies could garner even more of the the market if it was more accessible. We currently enjoy a more than two-to-one trade advantage in the sale of data processing equipment with the Canadians. Undoubtedly, this advantage would expand if Canadian trade tariffs were eliminated.

In the area of telecommunications equipment, U.S. manufacturers have been virtually shut out in Canada due to the tariffs, while Canadian manufactures have enjoyed substantial success in the U.S. This agreement gives U.S. companies the opportunity to fairly compete with the Canadians.

The results will be good news for both countries. While increased sales of high tech equipment will help the U.S. narrow its international trade deficit, Canada's economy will become more advanced technologically through increased high tech purchases from the U.S. Today, Canada is relatively advanced technologically, but small to mid-sized Canadian companies are starved for U.S. computer and communications products not available from Canada's indigenous technology industries. A more technological Canadian economy would lead to a more prosperous consumer culture in Canada. This could, in turn, lead to more U.S. exports to Canada. As a result, the Free Trade Agreement will be a much better bargain for the U.S. in five or ten years than it now seems.

TELECOMMUNICATIONS

CCIA is very pleased that the Free Trade Agreement includes a section on trade in services -- the first set of international rules governing this booming segment of world trade. While the agreement does not change much in the services area because services trade between our two countries is relatively free already, accounting for more than $11 billion worth of business annually between the U.S. and Canada, the agreement does codify liberalized trade policies.

But what FTA does guarantee is the further development of an open, competitive enhanced telecommunications and computer services market in North America. The regional Bell operating companies were just recently granted the right to provide limited information services. With the FTA, access to the telecommunications networks of the U.S. and Canada will be open, which means that consumers and businesses in both countries should have access to data processing and storage services, videotext, electronic mail, voice messaging, and the like. The agreement will also permit the leasing, sharing and reselling of telecom transport service and the attachment of special equipment to the network.

CCIA also hopes the agreement will serve as a blueprint for an international services trade agreement at GATT, and we are pleased that both governments will push for such an agreement at the Uruguay Round of talks.

PROCUREMENT

Our members are also excited about the government procurement opportunities created by the agreement. Current Canadian law contains a number of barriers which, in some cases, entirely bar U.S. suppliers from entering procurement competitions. Furthermore, there is currently no effective bid protest system for U.S. manufacturers in Canada. While the U.S. has exempted Canada from the great majority of "Buy American Act" provisions, a number of significant "Buy Canadian" rules thwart U.S. companies in their quests for contracts.

Under FTA, any federal government purchase of more than $25,000 must be open to suppliers of each country on a non-discriminatory basis. Other improvements include a provision which would eliminate the current requirement of investment in a country as a precursor to winning a procurement contract in that country and a permanent bid protest system that will settle complaints on a timely basis. Overall, under FTA, U.S. exporters would have access to more than one half billion dollars worth of additional procurement opportunities in Canada. Our companies are quite active in U.S. procurement bidding and look forward to even greater opportunities in Canada.

INVESTMENT

Another important achievement of FTA is that it codifies Canada's new investment openness. Canadian Prime Minister Brian Mulroney has already substantially liberalized the investment climate in Canada. He eliminated the New Energy Policy and Foreign Investment Review Agency, two programs that severely restricted foreign investment.

Following that line of action, Canada will renounce export commitments, import substitution, local content and local sourcing laws with the agreement's ratification. U.S. investors will be protected from sudden changes of Canadian Government policy.

Canada will retain, however, "Investment Canada," an agency that screens foreign investment. Fortunately, under the agreement, the agency will be limited to large acquisitions, with the vast majority of investments not under Investment Canada's jurisdiction.

The free-flow of capital across the border should greatly broaden U.S. investment opportunities. This capital should be a boon to Canadian industry and to interested U.S. investors.

OBJECTIONS

As stated earlier, it is somewhat disappointing that the agreement does not include a section on intellectual property. Although the U.S. won several concessions from the Canadians in the area of pharmaceuticals, it would have been helpful for our nations to draft a framework for future international copyright agreements, especially since the two nations' intellectual property laws are quite similar. Because Canadian law reflects a commitment to copyright protection similar to that of the U.S., we urge both nations to resume talks to come to a separate agreement on this issue.

We would also like the agreement to be universally accepted in Canada. Because the provincial governments in Canada have broader power than do state governments in the U.S., some data processing services are presently restricted in some provinces. The Administration promises to continue negotiations on this point, and we urge it to use all processes available to settle this issue before implementation.

CONCLUSION

CCIA has long been an ardent advocate of fair trade. The benefits of the FTA and the precedent it would set for future international agreements make it something we are proud to support. As a member of the American Coalition For Trade Expansion With Canada, we have long supported efforts to pen an agreement of this sort. The FTA is not perfect, but it will create a fair trade testing ground that will provide an impetus for worldwide trade expansion.

COMMENTS OF THE CALIFORNIA WINE INSTITUTE ON THE THE U.S.-CANADA FREE TRADE AGREEMENT LEGISLATION

The Wine Institute, representing over 590 California wineries, 80% of U.S. wine production and more than 90% of all U.S. wine exports, submits these comments on the U.S. -Canada Free Trade Agreement (FTA) in response to the request of the Committee dated February 23, 1988.

Though trade and investment bi-lateral agreements have been made with the Canadians on a sector-by-sector basis for many years, a comprehensive framework covering all sectors of trade between the U.S. and Canada has been long overdue. This Agreement has the potential of becoming very beneficial to the U.S. wine industry since it establishes guidelines for the Provincial liquor monopolies (LCB) and also provides a forum for dispute settlement actions.

The FTA is of substantial political and economic significance for the U.S. wine industry. The Agreement provides for equity and reciprocity in the wine sector. It establishes the principle that the political actions of the Provinces in administering the liquor boards have been discriminatory against U.S. wines. It is the intention of the FTA that this discrimination be eliminated under the national treatment clause and the specific provisions of the document that deal with wine. If the Agreement is carried out as planned, the wine industry expects to increase its sales to Canada by $40 to $60 million a year by the end of the 7-year implementation period.

Under the provisions of the FTA, U.S. wine producers should be able to compete in Canada on a more equal footing with their Canadian counterparts. This is to be accomplished through the "national treatment" provision which the provinces are to apply to their listing, mark-up and distribution practices. The listing procedures are to be made objective and transparent and are not to be used as a "disguised" barrier to trade.

The implementing legislation should re-enforce the principle of non-discrimination in listings. As a result of the FTA, the two largest Provinces, Quebec and Ontario, have announced plans for major changes to their listing policies and practices that will make them even more discriminatory in favor of Provincially produced wines than the current policies.

The current discriminatory mark-up differentials between U.S. and Canadian wines are to be phased out over the next 7 years. Any remaining differential between mark-ups will only be allowed if the LCB can show an audited difference in the administrative cost of service or handling between the U.S. and Canadian product.

There have been statements made by Canadian Provincial officials that the administrative service cost provision in the FTA will allow the LCB to continue to restrict U.S. wine sales by imposing an "administrative fee" equal to the current discriminatory mark-ups. The Alberta LCB has imposed such a high fee in the form of a flat tax on imported beer which is not covered by the FTA. The implementing legislation in both countries should provide for government audits of those costs, e.g. by the U.S. Government Accounting Office, when there is a question about the level of the charge. It was the understanding of the U.S. wine industry that this provision would result in nominal, i.e. 3 to 5 percent, price mark-up differentials if any difference was justified at all.

There is to be no discrimination in sales and distribution, and the process is to be made transparent in order to reduce the risk of future discrimination. However, on-premises sales in Ontario and Quebec are grandfathered for local wineries currently engaged in such sales and only wine bottled in Quebec can be sold in grocery stores.

The FTA also provides the framework to harmonize labelling, regulatory, technical and testing requirements. These stipulations if fully implemented, will assist the wine industry by limiting the development of inconsistent requirements which create effective trade barriers.

While there are significant benefits arising from the FTA, the wine industry has concerns regarding the implementation of the FTA. One major problem is the attitude of the largest Provincial governments and LCBs toward the Agreement and their willingness to abide by its guidelines. As pointed out above, there is plenty of room for interpretation. Good faith from the Canadians will be necessary for the barriers to be removed. The Provincial governments operate separately from the Federal government and they have often resisted Federal intervention. Should some of the Provinces refuse to implement, or worse, find "loop holes" to thwart the intention of the FTA, the industry expects the Canadian Federal authorities to ensure open access to those markets for U.S. wines.

Another concern is the treatment the Canadian government will give to European wines as a result of the GATT panel report that was adopted by the GATT this week. That report found the LCB practices to be a violation of Canada's international trade obligations. Should the Canadian government give the EEC equal or better treatment than that given under the FTA, the U.S. wine industry recommends that the concessions granted to Canada under the FTA for Canadian distilled spirits be withdrawn. Provision for this possibility should be made in the implementing legislation.

Lastly, there is concern generally with the possibility of the Canadians giving the same treatment to any third country. This Agreement is preferential, and these preferences were "paid" for by the U.S. in the negotiation of the FTA. If Canada grants the same treatment to other countries for which no concessions were made, provision should be made in the legislation for the U.S. to withdraw its concessions or compensation immediately.

Though the wine industry would like to see a shortened phase-in period for the removal of the discriminatory price markups, the industry is more concerned that the FTA is actually implemented by all of the provinces on January 1, 1989. In order to ensure this effective implementation of the FTA, there is a need for clear language in the implementing legisltaion in both countries that will provide for our concerns.

We appreciate the opportunity to present our comments to the Senate Finance Committee.

WRITTEN TESTIMONY ON
U.S.-CANADA FREE TRADE AGREEMENT

SUBMITTED BY
MARY K. ALEXANDER, TRADE PROJECT DIRECTOR
CITIZENS FOR A SOUND ECONOMY
TO SENATE COMMITTEE ON FINANCE
MARCH 25, 1988

Citizens for a Sound Economy is a grassroots-supported public policy organization with more than 250,000 members nationwide. On behalf of our members, we strongly urge the Senate Finance Committee to approve the recently negotiated free trade agreement with Canada.

It is clear that this pact will have far-reaching implications. It offers substantial opportunities to both nations' citizens and businesses in the form of lower consumer prices, greater consumer choices, and additional export opportunities for U.S. business. Economic studies estimate that the free trade agreement could raise U.S. gross national product by anywhere from $10 billion to $45 billion--that's up to one percent of U.S. GNP. These studies also estimate Canada's GNP may increase by 2 to 5 percent.

The agreement would further enhance the scope of the special relationship between the United States and Canada. Similarities in culture and economics, common language, a large volume of trade, and generally good trade relations give the two countries an excellent opportunity for success.

This agreement could not come at a more crucial time. Trade disputes between the two countries are growing, and protectionist sentiment is on the rise. If this agreement is not ratified, chances for the success of another negotiation before the next century are almost nil.

The United States and Canada already share the world's largest bilateral trading relationship, with trade totaling more than $150 billion in 1987. Two million American jobs, primarily in our industrial heartland, depend directly on exports to Canada, and more than 2.2 million Canadian jobs depend directly on exports to the United States. More jobs in the United States depend on trade with Canada than on trade with any other country. The United States exports more to the province of Ontario alone than to Japan, this country's second largest trading partner. Michigan, New York, and California, the largest exporting states to Canada, have the most to gain by the agreement. In 1986, they alone exported more than $16 billion worth of goods to Canada.

The two countries have agreed to eliminate all tariffs on each other's goods within ten years after the agreement takes affect. Manufacturers and consumers in both countries will benefit the greatest by the simple elimination of these tariffs. Canada has some of the highest tariffs in the industrialized world. They average between 9 percent and 10 percent, but many exceed 15 percent, including those on textiles, clothing, and footwear. Although the average U.S. tariff is between 4 percent and 5 percent, the United States also has tariffs of over 15 percent on many goods, including clothing. The Department of Commerce estimates that more than 14,000 new jobs would be created in the American machinery, textile, clothing, paper products, and furniture manufacturing industries as a result of tariff elimination alone.

The free trade agreement opens up new avenues of opportunity for small and medium-sized U.S. companies previously unable to generate much business with Canada because of its high tariffs. If Canada's tariff rates were merely cut to the level of other industrialized nations, U.S. exporters could gain $500 million in sales annually, according to the Office of the United States Trade Representative. Manufacturers and processors of such products as office machines, motorcycles, leather, whiskey, and fish will benefit first because of the immediate elimination of tariffs. The more politically sensitive tariffs on consumer goods such as beef, appliances, costume jewelry, farm products, lumber, other distilled spirits, plastics, rubber, textiles, apparel, tires, and watches will be eliminated by 1999.

Because no international agreements yet prevent protectionism in the services industry, the pact breaks new ground by establishing trading rules in the areas of investment, financial services, and technology. Trade in services such as transportation, insurance, and the professions is liberalized, and remaining regulations would not be used to discriminate against imports from either country. The pact includes this country's first bilateral agreement covering the entire financial sector. Discrimination faced by U.S. financial institutions operating in Canada is eliminated, and financial firms on both sides of the border will compete on a more equal basis. Foreign investment by citizens of both countries can take place in a more open and secure environment. Investors in both countries will now be able to start new ventures and sell old ones with a minimum of government screening.

The benefits of truly open trade will be demonstrated by the agreement's success. Enhanced U.S.-Canadian prosperity has the potential to spur worldwide trade liberalization in an era when protectionism is on the rise. The agreement can convince other nations that the United States is seriously interested in comprehensive, multilateral reductions in trade barriers. It can also set an example for the rest of the world on how reduced barriers to trade can accelerate economic growth and provide greater consumer choice. Other countries should be encouraged to follow suit.

There are mounting pressures to renegotiate parts of this agreement. Some industries have said they want better treatment than it gives them currently. However, members of Congress should look at the overall economic benefits both countries will receive. The United States will be better off with the agreement than without it. And once it is implemented, both countries can more onward to continue the process of trade liberalization. Additional areas for negotiation can be explored, but only after this first step is completed.

CSE has members in every state ready to mobilize in support of sound economic policies. We believe that this market-opening agreement deserves your full support.

CONSUMERS FOR WORLD TRADE

Statement On US-Canada Free Trade Agreement
March 23, 1988

The free trade agreement between the United States and Canada is a long, complex document covering many of the aspects of the two countries' extensive economic relationship. Not all of its provisions are favorable to consumers. Some existing restrictions on trade are expressly extended indefinitely into the future. The degree of liberalization differs as among sectors. Complete free trade will remain a goal still to be accomplished.

On balance, nevertheless, this move toward an undefended commercial border with our largest trading partner promises significant benefits for American consumers. CWT believes that the legislation needed to give effect to the agreement should be approved by the Congress.

It would be appropriate to recognize in the enabling legislation that ongoing negotiations to broaden the scope of the agreement are needed. The legislation should call on the Executive to undertake discussions with the government of Canada to this end.

The most visible of the potential gains to consumers is the agreement to eliminate custom duties in merchandise trade. The impact of this should not be discounted. Although it is true that a large share of imports from Canada already enter the United States free of duty, this trade is heavily weighted by a few commodity groups: autos, newsprint, natural gas, and wood pulp. A wide range of other products is dutiable. The tariffs on these products, together with burdensome customs formalities, discourage imports from Canada just as Canadian tariffs and customs procedures discourage imports from the United States. As tariffs are phased out, trade flows will increase and consumers will benefit both from lower prices and from a wide variety of Canadian goods.

It is worth remarking that the elimination of tariffs will extend to agricultural goods. The agreement's agricultural chapter, for rather understandable reasons, does not go much further. In particular, it leaves mainly to the Uruguay Round the question of subsidies which is at the heart of the agricultural trade problem. Even so, the agreement represents the first liberalizing step in agricultural trade in memory and deserves to be so recognized.

A substantial beginning has been made toward general rules to govern trade in services and for their application to individual services sectors. This is a win for consumers and one that conceivably can now be repeated on a wider front in the Uruguay Round in Geneva. With Canada, moreover, we have the basis for negotiating the coverage of additional sectors and for otherwise expanding the bilateral area of liberalized trade in services. Unfortunately, the transport sector has been exempted from coverage, primarily because of opposition from American maritime interests.

An unexpectedly broad chapter on trade in energy and energy materials basically prohibits restrictions on either exports or imports by either party. Since Canada is our most important outside source of oil and oil products, natural gas, electricity, and uranium, the assurance of access to Canadian supplies and the removal of border restrictions is bound to be a gain for consumer welfare in the United States.

Other sections of the agreement promise direct or indirect benefits to consumers. These include a widened area of open procurement on public account, a financial services chapter that will allow greater competition among financial institutions, and reciprocal measures to facilitate trans-border business travel.

Mention should be made also of the agreement's dispute settlement provisions. The existing legal and administrative environment (in both nations) for the adjudication of complaints of unfair trade is more often than not unduly costly to the ultimate payers, that is, consumers. It is also open to politicization. The procedures that have been agreed to for handling bilateral disputes are experimental but they offer the welcome prospect of a process that may be less expensive, more predictable, and accepted as being objective and fair.

As was said earlier, the agreement falls short of being uniformly favorable to the consumer. The arbitrary exclusion of transport services is one example. Another is the grandfathering of Canadian export controls on logs and on unprocessed fish. The Canadian 15 percent export tax on softwood logs, imposed as an alternative to a countervailing duty, remains in force, as do the temporary escape clause tariffs on Canadian cedar shingles. The automobile chapter has rules of origin that will effectively raise the domestic content requirement for automotive goods in bilateral trade.

Article 2104 of the agreement provides that the parties may agree upon "any modification or addition" to it. The Congress will have the opportunity in the enabling legislation to encourage negotiations to expand the scope of liberalization of our bilateral trade. We hope that this opportunity will not be overlooked.

WRITTEN STATEMENT
OF
JOHN R. ADAMS
CHAIRMAN OF THE BOARD
ENERGY FUELS CORPORATION
TO
SENATE COMMITTEE ON FINANCE

March 17, 1988

U.S. - CANADA

FREE TRADE AGREEMENT

INTRODUCTION

My name is John R. Adams and I am Chairman of the Board and Chief Executive Officer of Energy Fuels Corporation which is the nation's largest producer of uranium for use in the generation of commercial power. Energy Fuels also mines coal and gold and has ranching, construction and banking interests in a five-state region. I am also here as a representative of the Uranium Producers of America which is a trade association comprised of most of the country's uranium producers.

STATEMENT

It is with regret that I appear before you today to urge you to reject the Canadian Free Trade Agreement (the "FTA"). I do so, not because uranium producers oppose the elimination of trade barriers among nations; rather, because we believe our trade negotiators should have insisted upon fairness for industries on both sides of the border. Quite simply, because our trade negotiators were more concerned about the precedent the agreement will have on other trading relationships, they agreed upon a number of provisions which are simply bad policy. At the conclusion of the trade negotiations, Mr. Simon Reisman, the Chief Canadian Trade Negotiator, stated:

> "The trade covered by the items we eventually agreed to are close to three-to-one in favor of Canada. Our people were way ahead of them in terms of the analysis, the investigation, the facts, the methods, the procedures, the whole business. You would think that the United States was an underdeveloped country alongside us in terms of the way this negotiation went." Maclean's, December 31, 1987, p. 18.

I am sorry to say that with respect to the FTA and uranium issues, I agree with Mr. Reisman. Our trade representatives should be directed to return to the bargaining table to achieve a trade agreement consistent with the objectives of free trade and fairness and not just the label "free trade."

The Significance and History of the Uranium Industry.

Uranium is a special commodity which, because of its national security implications, is subject to extensive regulation by most producing and consuming countries. The major producing nations are South Africa, Australia, Canada and the United States. With the exception of production from South Africa, producing countries place stringent non-proliferation controls on the commodity. These controls have a direct effect upon the uranium market. As a commodity, uranium can be transported around the world for pennies but, because of the politics of non-proliferation, some uranium is more acceptable to consuming countries than others. For example, much of Europe and most Asian consumers prefer South African or Central African uranium because the non-proliferation regulations are much less stringent than those imposed by the United States, Canada and Australia.

For much of the recent past, the United States was the largest producer of uranium in the world. At first, all U.S. uranium production was controlled by the federal government. However, in the early 1960's, Congress decided to encourage the private investment and ownership of uranium reserves and production; but because of the commodity's national importance and the newness of the nuclear industry, Congress assured the private sector through Section 161(v) of the Atomic Energy Act (the "Act") that its investment would remain viable. As Congressman Wayne Aspinall of the Joint Committee on Atomic Energy stated during the floor debate on the passage of the Private Ownership of Special Nuclear Materials Act: "Section 161(v) was intended to "protect our [domestic uranium] industry from possible ruinous competition... by providing restriction on enrichment of foreign uranium. Congressman Les Morris, also a member of the Joint Committee added that Section 161(v) would "protect our industry against ruinous competition from cheap, foreign uranium."

Accordingly, the Atomic Energy Commission, as the predecessor to the United States Department of Energy ("DOE"), was mandated to maintain the viability of the U.S. industry in order to attract private investment.

Private industry responded to this invitation and, in the late 1960's and 1970's invested in excess of three billion dollars in mines and mills. By 1979, the country was producing approximately forty-three million pounds of uranium per year, directly employing in excess of 22,000 people. Production was centered in Wyoming, New Mexico, Colorado, Utah, Arizona, Texas, Washington and Florida.

While the industry responded to the congressional invitation, fundamental changes were taking place in the marketplace. Uranium prices, in 1979, reached $43.00 per pound, but much of the demand was artificial due to DOE uranium enrichment policies.

In anticipation of continued large increases in electrical demand, the nation's utilities planned a very aggressive nuclear power program. Because of the lead times of the nuclear fuel cycle, they entered into DOE enrichment contracts which required uranium deliveries irrespective of the status of the power project. These "fixed requirements" contracts kept the demand for uranium artificially high while the nation's nuclear power program was being severely curtailed. In 1980, the market began to react to the oversupply of uranium. Large inventories of uranium were liquidated by utilities which no longer needed enriched or natural uranium, or whose inventory carrying costs were unacceptably high. Market prices plummeted from $43.00 to $17.00 per pound, and the world held an eight year forward inventory of uranium. Equally devastating was the fact that many projects in other producing countries such as Australia and Canada were just coming into the market. These projects had been planned on the basis of the optimistic projections of the 1970's and simply aggravated the inventory situation. It wasn't until

1985 that world demand exceeded world production. There are still approximately four years of forward inventory keeping the uranium markets at the depressed $17.00 per pound level.

Inevitably, the lower prices led to a retrenchment among U.S. producers. Employment fell from 22,000 to not more than 2,000 and production declined from forty three million pounds to approximately twelve million pounds U_3O_8 per year. Since 1980, in excess of eight hundred million dollars have been written off by the industry. Many mines have been flooded and mills decommissioned.

With the collapse of the uranium market, producers asked DOE to live up to its obligations under Section 161(v) of the Atomic Energy Act; but DOE refused and also refused to evaluate the viability of the industry. In 1982, Congress directed DOE to determine, annually, the industry's status to see if Section 161(v) should be invoked. DOE's first evaluation for 1983 found the industry viable. However, since then, DOE has found the industry to be non-viable based upon losses sustained and the ability of the industry to service the nation's demand at current prices. Interestingly, demand of the nation's utilities is now approximately 35-40 million pounds per year. Not only did DOE fail to maintain the industry's viability as required, it allowed the industry to die without complying with the congressional directive.

In 1984, several producers filed suit claiming that DOE had failed to live up to its responsibilities under the Act. In spite of DOE's efforts to delay the litigation, the District Court of Colorado ruled in favor of the producers and ordered DOE to limit the enrichment of foreign uranium. DOE appealed this adverse result to the 10th Circuit Court of Appeals and during the interim did nothing to comply with its obligation. In July, 1987, the Appellate Court upheld the District Court's order, and, once again, DOE ignored the decision and appealed to the United States Supreme Court. A decision from the United States Supreme Court is expected during the summer of 1988. This effort to force DOE to comply with the will of Congress has cost the industry in excess of one million dollars in legal fees, and, in spite of the determination of two courts that DOE has a mandatory obligation, DOE has yet to take any action whatsoever to maintain the industry's viability. Losses continue to be incurred by the industry at the rate of in excess of two hundred million dollars per year while it waits for DOE to obey the law.

The Impact of the Free Trade Agreement.

Just as uranium producers are about to achieve relief under the Atomic Energy Act, the free trade agreement was announced. During the trade negotiations, there was never any indication that uranium would be a subject of the free trade agreement; but at the final hour, the Canadian provincial and federal governments insisted that Canadian uranium be exempt from any limitation on enrichment resulting from the producers' lawsuit. Our negotiators readily agreed because the change demanded by the Canadians conveniently reversed the eight years of struggle by U.S. producers to force DOE to abide by the law. In essence, chapter nine of the trade agreement allows Canadian origin uranium to be enriched by DOE as if it were U.S. origin uranium. Canada produces approximately 33 million pounds of uranium per year and uses only 6 million pounds. Thus, the uranium provisions of the FTA represent a significant and devastating exception to the provisions of 161(v) of the Atomic Energy Act.

Chapter nine of the FTA dealing with uranium trade is important to Canada because of the substantial investments made by the federal and provincial governments over the last ten years.

These investments now total nearly three billion dollars ($C3,000,000,000). A description of these investments is attached as Appendix I. These investments were made, not because the Canadian nuclear power program requires such levels of production; rather, they were intended to take advantage of expanding nuclear programs in the United States and the rest of the western world. The contraction in the world's nuclear power programs have caused Canada to fight that much harder to make sure that the U.S. market is not restricted.

The National Security Implications.

Congress encouraged private ownership and adopted Section 161(v) of the Atomic Energy Act because of the national security implications of the uranium industry. The uranium provision of the FTA expressly reverses twenty-four years of Congressional findings on the subject; but under the FTA, the United States will be unable to use Canadian uranium as fuel in our nuclear navy, for weapons, or as uranium metal for armor-piercing bullets. Canada's non-proliferation policies prohibit such use. The U.S. Navy has over 200 operating nuclear power reactors in its fleet. Without a viable domestic uranium industry, the United States will have to rely on uranium from South Africa for defense needs. Australia, like Canada, does not allow its uranium to be used for military purposes. While the U.S. trade representative claims there will always be a U.S. uranium industry available to service defense needs, he has no idea how weak the industry is or how great its capital needs for new mines and mills. Nor does the U.S. trade representative understand the opportunity for monopolistic behavior on the part of Canadian government producers. In the 1970's, the producers, under the direction and protection of the government, formed a cartel which set minimum prices. Under U.S. Judicial and Congressional pressure, the cartel was disbanded, but as recently as 1981, DOE concluded that its resurrection was likely. The recently announced merger between the two Canadian governmental producers portends just such a development.

Canada's Uranium Industry; Supports; Subsidies and Strategy.

Over the years, Canada has encouraged the production and upgrading of nuclear fuel. Canada's own nuclear power industry uses approximately six million pounds of uranium per year. Much of this uranium comes from the Province of Ontario where the mines are high-cost and low-grade. A significant new production center was started in the Province of Saskatchewan in the early 1980's. Much of this uranium is lower cost and available for world markets. Virtually all Saskatchewan uranium production is controlled by the federal or provincial governments. The manner in which Canada has made its investments and the way in which it supports its indigenous uranium industry gives Canadian government producers a tremendous advantage over producers in the United States and other parts of the world. For example, the high-cost production centers are supported with contracts which pay producers in excess of $85.00 per pound. These contracts are valued at $9.7 billion (1986 dollars), have terms up to forty years and provide all of the requirements of Canada's nuclear power program. Thus, U.S. producers are unable to sell uranium to Canada and will continue to be unable to sell uranium under the FTA. This is not because there is an outright prohibition on such sales - the Canadians were not so naive; rather, they simply adopted a policy that requires the utility to have a twenty year forward supply which conveniently comes from Canada's high-cost production centers. The structure would be airtight but for the fact that these contracts can be terminated upon five years notice by the utility. Thus far, there have been no terminations even though the prices are approximately two to three times the current world market price. The government utility defends its failure to terminate the contracts on the grounds that employment at the high-cost Ontario mines is important and must be preserved and, of course, Canada has a great deal more concern for its own uranium miners than for uranium miners in the United States. Only 500,000 pounds of uranium are taken annually by the government utility from Saskatchewan; but the prices paid for this production are substantially higher than the current market price of $17.00 per pound. Here, the explanation is that such prices are required to amortize the significant investment by government corporations in the Saskatchewan mines and mills.

With respect to Saskatchewan, the premier mine which produces approximately twelve million pounds of U_3O_8 per year and approximately fifteen percent of the world demand is the Key Lake deposit. This deposit would have never been opened in the depressed market of the 1980's and thus would not impact the current market without the substantial government investment. Approximately $750,000,000 were invested to open this project. This investment was made largely by the federal and provincial governments and was cleverly done to avoid violating U.S. trade laws. Loans were obtained from commercial banks; but these loans were unconditionally guaranteed by the federal and provincial governments. When the government corporations have been unable to pay back the loans as scheduled, the loans have been refinanced, the guarantees extended and additional capital invested to pay interest and fund cash shortfalls. Such things are easy to do when the government is committed to developing natural resources. While such accommodations were being made by Canada, U.S. producers were writing off their loans and investments. DOE, of course, offered no loans and guaranteed no loans for U.S. producers.

It is these tremendous investments in government-owned uranium projects that made Canada fight so hard for the uranium provisions of the free trade agreement. Shortly after the trade agreement was announced, approximately forty Senators and Representatives wrote a letter to the President of the United States expressing their dismay at the uranium provisions of the FTA. The trade representative was then directed to return to the bargaining table and ask for a phase-out period of Section 161(v) protection much like other industries were given. The Canadians, of course, said no, and thus we are faced with a provision which will undo eight years of struggles by U.S. producers. Far better that the industry had been liquidated in 1980 when the market first collapsed than to have struggled for eight years only to be sacrificed by our trade negotiators who admitted that they did not understand the uranium industry on either side of the border. Of course, DOE is delighted with the prospects of the FTA because it will allow it to avoid the responsibilities it has so desperately tried to avoid under Section 161(v) of the Act.

Other Considerations.

Subsidies and Non-Tariff Barriers

The Administration calls the U.S.-Canada agreement a historic accomplishment and that many of its features can be used as a model for future bilateral and multilateral accords. The FTA, however, does nothing to resolve past, present and future Canadian subsidies and unfair trade practices.

Specifically, the FTA endorses the use of foreign subsidies and non-tariff barriers to compete with American companies. If the agreement is ratified by Congress, there will be no incentive for Canada to discontinue use of these unfair practices. They will become entrenched and institutionalized. Other nations will want the same deal.

Investment Restrictions

To compound matters further, on December 23, 1987, the Canadian government announced that Canadian companies must continue to own at least 51% of a uranium deposit when it comes into production. The announcement was intended to make uranium consistent with the Investment Canada Act and other recent initiatives in oil, gas, coal and non-fuel minerals.

On February 22, 1988, the Canadian government announced the merger of the federally-owned corporation, Eldorado Nuclear, Inc. and the provincially-owned corporation, Saskatchewan Mining Development Corporation. The new entity will ultimately be privatized. However, foreign ownership will be limited to no more than a 5% interest for an individual company and no more than a 20% maximum interest among all foreign companies.

Another area of concern is the investment section as it relates to a provision that allows Canada de facto veto power over American acquisitions of Canadian companies. The U.S. retained no such rights.

Inadequacy of U.S. Trade Laws

Frequently, it is asked why U.S. uranium producers do not seek relief under U.S. trade laws. The answer is found in the inadequacy of U.S. trade laws which narrowly define dumping and subsidization.

Canadian and other foreign governments, which were severally criticized for engaging in the Foreign Producers Cartel in the 1970's, are not about to be caught again. Thus, they have orchestrated their investments and support in such a way as to avoid violating U.S. trade and antitrust laws. Our Trade Representative, when finally asked to evaluate this situation, concluded as much in a letter dated December 1985 to Secretary Herrington. Furthermore, the remedy for U.S. uranium producers is expressly set forth in the promise Congress made in 1964 to encourage private investment. It is this remedy which producers have pursued since 1980. The industry is now on its last legs and even if U.S. trade laws were changed, it is probably too late to salvage the large investments that have been made unless the uranium provision of the FTA is rejected.

Binational Panel May Be Unconstitutional

To settle trade disputes under the FTA, a binational panel was adopted in favor of judicial review. Ambassador Yeutter's statement to Congress that "Under the FTA, the United States will retain the full use of all existing unfair trade laws, including countervailing-duty law to address injurious subsidies and antidumping law to address injurious sales at less than full value" is misleading. What he fails to mention is that any decisions rendered under these statutes by the Department of Commerce and/or the International Trade Commission are not subject to review by the U.S. Court of International Trade, the U.S. Court of Appeals for the Federal Circuit, or the U.S. Supreme Court.

The binational panel, as it is structured, cannot be considered a court under the U.S. Constitution. Its members - the majority of whom could be Canadian - are not confirmed by the U.S. Senate, the panel cannot receive judicial power under the Constitution, U.S. judges do not sit on the panel, and since its decisions are conclusively binding, they cannot be appealed to the Supreme Court.

Recommended Actions.

While all of this was transpiring, U.S. producers attempted to reach a compromise with DOE and with the nation's utilities. U.S. producers were successful with the utilities, but DOE has consistently refused to discuss the matter with either group. The compromise is set forth in Senate Bill 1846 which has been favorably reported by the Senate Energy Committee. This bill would repeal Section 161(v) of the Act and replace it with a requirement that U.S. utilities burn a decreasing percentage of U.S. uranium between now and the year 2000. Such an approach is entirely consistent with the approach taken by the U.S. trade representative with respect to other U.S. industries where past Canadian behavior required a period of adjustment. It is hoped, that S. 1846 will emerge from the Senate and be adopted as a reasonable approach to complex issues by the House of Representatives during this session. The bill is supported by producers, utilities and rate payers, and I believe it is acceptable to DOE enrichment officials. Due to the Administration's philosophy on trade, however, DOE cannot actively support S. 1846.

As the letters from the several Congressmen and Senators attached as Appendix II hereto state, the inclusion of provisions of S. 1846 into the Canadian free trade agreement would solve the problems raised by U.S. producers. However, because of the fast track procedures under which the FTA is being considered, amendments appear to be impossible. Thus, we are forced to urge you to reject the FTA. In doing so, however, we would also urge that the negotiators be directed to return to the table to arrive at a trade agreement which adjusts for past Canadian subsidies and treats the domestic uranium industry fairly.

Conclusion.

Thank you very much for the opportunity to present testimony on an issue that has tremendous national security implications for this country and which presents a stark example of the need for a fair as well as a free trade agreement with our clever and respected friends to the North.

John R. Adams

COMMITTEE ON FINANCE
UNITED STATES SENATE

ON THE
UNITED STATES - CANADA FREE TRADE AGREEMENT

ON BEHALF OF
THE FLORIDA FRUIT & VEGETABLE ASSOCIATION

The Florida Fruit & Vegetable Association (FFVA or Association) supports the major provisions of the U.S.-Canada Free Trade Agreement (FTA). FFVA believes the benefits of the FTA outweigh the detriments. However, FFVA is concerned about some issues which apparently have not yet been resolved or addressed.

Florida Fruit & Vegetable Association (FFVA)

FFVA is a private, non-profit agricultural cooperative of growers, shippers and processors of vegetables, citrus, sugarcane and tropical fruits. FFVA was organized under the laws of the State of Florida to provide a means of dealing with public and private agencies to aid in the recognition and solution of industry problems.

FFVA has a long history of international trade involvement on behalf of its members and is active today in many U.S. agricultural trade policy matters.

Free Trade Agreement (FTA)

Canada is a major, growing market for Florida's fruit and vegetables. Accordingly, to the extent that the FTA provides a greater opportunity for us to sell our produce to Canada, we support the FTA. We support the stated benefits of increasing our markets in Canada with no tariff barriers and with fewer non-tariff barriers. FFVA has always supported the concept of free trade as long as it is fair trade.

We support the stated intention of eliminating all subsidies which artificially distort the market in agricultural trade. Florida's fruit and vegetable growers historically have not asked for, nor received, subsidies or government assistance of any kind.

Although FFVA is supportive of the FTA with Canada, we wish to bring to your attention a number of issues of concern to us. In addition, we note for the record that our support for this FTA does not mean we will support other FTA proposals. Indeed, the record will show FFVA first supported and now opposes the Caribbean Basin Initiative; FFVA opposed the U.S.-Israeli FTA; and we would oppose any such agreement with Mexico, principally on the grounds that with respect to fruits and vegetables, Mexico has not competed fairly in the U.S. and Mexican markets.

FFVA's Concerns with the U.S.-Canada FTA

Principally, FFVA is concerned with the area of non-tariff trade barriers. Despite the promise that such barriers will be eliminated, there appears to be little hard evidence of how that will be achieved. It is important to harmonize each country's technical requirements. It is equally important to have a time-frame in which to achieve these goals.

Congress can play an important role here by conditioning its support of the FTA on an agreement as to time frame and specific consultative processes needed to fulfill the goals of the FTA. More particularly, Congress should insist that agencies like the Environmental Protection Agency and the Food and Drug Administration participate with their Canadian government counterparts in harmonizing public health and food safety requirements. This is quite important and could set an important precedent in light of the current GATT negotiations if acted upon quickly.

Other technical non-tariff barriers such as packaging and labeling requirements also should be addressed fully and promptly.

FFVA is concerned with the FTA provision concerning the rule of origin eligibility for tariff treatment. To the extent that this rule perpetuates artificial barriers, contradictions or discriminatory practices, these should be eliminated.

FFVA also is concerned about transshipments of products through Canada to the United States in a duty-free status which would not be permitted if imported directly into the United States.

FFVA is concerned that Canada may succumb to internal pressures and arbitrarily and unfairly reimpose duties on horticultural products. A fair bi-national dispute settlement procedure is critical to the success of the FTA. Congress must insist that our government commit itself to developing the full, proper and prompt implementation of the FTA on the issues addressed and on those not addressed. The fact that some important issues are unresolved should cause Congress enough concern to seek a firm commitment to promptly develop and implement the FTA.

Conclusion

On balance, FFVA believes the FTA will be of benefit to Florida's fruit and vegetable growers and, therefore, we support the FTA. However, Congress must insist that our government carefully (but promptly) implement and then monitor the FTA.

Accordingly, in view of the foregoing, the Florida Fruit & Vegetable Association urges ratification by Congress of the United States-Canada Free Trade Agreement.

WRITTEN STATEMENT OF JAMES M. FRIEDMAN,
BENESCH, FRIEDLANDER, COPLAN & ARONOFF

Before The Senate Committee on Finance

Hearing on the United States-Canada Free Trade Agreement

March 25, 1988

I am pleased to provide the Committee with my views on how the proposed Free Trade Agreement (FTA) with Canada will affect coal production and electricity markets in the United States. I am a partner with Benesch, Friedlander, Coplan and Aronoff in Cleveland, Ohio. I have studied Canadian-American energy issues for several years and my legal practice has involved several Canadian-American issues. However, the opinions expressed in this testimony represent my personal views and they are expressed on my behalf alone.

The FTA raises several questions concerning the future of energy trade, both coal and electric, with Canada. Commentators both in the United States and Canada have expressed widely varying concerns regarding the FTA. In Canada, it has been suggested that the FTA makes Canada nothing more than a resource colony of the United States. In the United States, the ability of the Canadian government to implement the FTA over opposition of certain provincial governments has been questioned. It may be premature to describe my questions as objections to the FTA, but Congress should require that they must be answered in order to have an adequate understanding of the potential impact of the FTA upon which to base a vote for or against its approval.

These questions are:

1. Will the FTA abolish the current Presidential Permit requirement for electricity imports into the United States? If so, does Congress intend that national reliability and environmental issues raised by such imports not be addressed in any forum?

2. Will the FTA abolish the authority of Canada's National Energy Board over Canadian electricity exports to the United States? Does the FTA allow energy exported to the United States be sold at a price higher than the price charged to Canadian consumers?

3. Does the FTA contain a loophole that would provide an unfair trade advantage to subsidized Canadian electricity?

4. Will the FTA create environmental problems by encouraging the construction of electricity generation and transmission facilities in Canada? Will this construction harm birds protected by the Migratory Bird Treaty? I do not have complete answers to these questions. They raise serious concerns about the impact of the FTA. The basis for these concerns is addressed separately.

In light of these concerns, I recommend that Congress take the following measures:

1. Congress should impose a moratorium on the signing of all long term contracts (longer than three years) to import electricity from Canada until the study of Canadian subsidies, as required by the FTA, is completed. Without this moratorium, Canadian electricity producers may obtain a competitive advantage unintended by the FTA and irreversible at a later date.

2. Congress should enact H.R. 3525 ("The Environmental Equity Act") to prevent the transfer of environmental degradation to Canada. This measure is crucial if the FTA abolishes environmental oversight authority currently provided through the Presidential Permit process and National Energy Board licensing. These measures are necessary to ensure that the FTA does not inadvertently contribute to unfair trade or environmental harm.

I. Background on Electricity Trade between United States and Canada.

Electricity trade between Canada and the United States began with small balanced exchanges of electricity between the United States and Canada. The first international transmission line was at Niagara Falls in 1901.

With the adoption of the Canadian National Power Policy in 1963, Canada began an aggressive marketing campaign to export electricity. In 1967, the United States had an electricity trade surplus with Canada of approximately $6,000,000. However, by 1985, the United States had a trade deficit of $1.2 billion based on imports of 43,416 gigawatthours (GWH) of electricity from Canada. In 1987, the United States imported an estimated 48,000 GWH which represents a 35% increase over 1986 levels.

To put these figures into context, consider that the amount of electricity imported from Canada in each of the last few years would require construction of the equivalent of approximately four new Hoover Dams, or one and one-half new nuclear plants with a total capacity of Diablo I and II in California, or six new Shoreham Nuclear Power Plants on Long Island.

While Canadian imports account for approximately two percent of total United States electricity generation, the dependence on Canadian imports varies significantly by region. Currently, for example, New York imports approximately 17% of its electricity from Canada. New England as a whole imports approximately 8% of its electricity from Canada. These levels may increase significantly in the future.

Since massive Canadian hydroelectric resources remain to be developed, the surplus earned by Canada in this trade will continue. Hydro Quebec estimates that approximately 17,000 megawatts (MW) of economically developable hydro capacity exists near James Bay or from other hydro resources in Quebec. Manitoba Hydro estimates 9,300 MW of hydro potential in Manitoba. Overall, Canada has an estimated 80,000 MW of economically developable hydroelectric capacity that may be developed by the year 2005. This does not include nuclear capacity that Canada has offered to develop for export to the United States. Continuing with the previous analogy, 80,000 MW of potential new hydro capacity would be the equivalent of 61 new Hoover Dams, or 36 new Diablo I and II Generating Stations, or 100 new Shoreham Nuclear Power Plants.

II. Impacts of the FTA on Coal Production and Energy Market in the United States.

In the negotiations over the FTA, the United States sought to eliminate price discrimination in the purchase of Canadian energy and to protect national security by preventing the arbitrary interruption of electricity trade by Canada. The FTA eliminates the "cost avoided" pricing requirement that currently is imposed by Canada's National Energy Board (NEB) which requires United States purchasers to pay slightly less as much as they would for other electricity sources such as oil or coal. This may mean that even cheaper Canadian power will be sold in the United States if Canadian producers export power at domestic rates. Consider the differential in these 1985 residential rates in cents per kilowatt hour: Chicago -- 10.15; Denver -- 7.36; New York -- 16.50, Vancouver -- 4.72, Toronto -- 3.81, Winnipeg -- 3.54. As discussed later, the Canadian rates reflect an array of subsidies.

If approval of the FTA results in cheaper electricity being exported to the United States, the effect would be to decrease the amount of coal burned for the production of electricity in the United States. Some United States utilities have already deferred the construction of new power plants on the basis of long-term firm contracts now being offered by Canada. For example, Northern States Power has announced that two contracts with Canada allowed it to avoid building a coal generating plant to meet capacity needs. Additionally, recent contracts in Vermont and Maine will allow utilities there to avoid new power plant construction.

If Canadian electricity becomes available at a lower cost to United States utilities and if contract terms can be as long as 25-30 years, the result will be to displace coal production and mine development in the United States. The Utility Workers of America estimated that approximately 13,000 jobs within that industry alone were lost as a result of electricity imports from Canada based on the level of imports in 1982. Since Canada's current exports are greater now, the current job loss is probably much higher. Moreover, Canada is actively pursuing long-term contracts for periods in excess of 20 years. As the number of these contracts increases and as the overall amount of exports continues to rise, the effect will be to eliminate the potential for coal to expand into new markets. The effect this will have on coal mining jobs in the United States may be significant.

In The Report Of The National Governor's Association Committee On Energy And Environment Task Force On Electricity Transmission entitled Moving Power: Flexibility for the Future, Governor Arch Moore, Jr. of West Virginia and Governor James Thompson of Illinois have shown that electricity could be transmitted from the Midwest to the Northeast to supply the current capacity shortfalls there. Midwestern utilities have had surplus power available for some time but are unable to wheel the power to the Northeast because transmission lines running from the Midwest to the Northeast are at capacity frequently because Canadian power currently is wheeled through on this capacity. By updating some transmission lines and constructing new transmission lines, it would be possible for the Midwest to compete with Canada for the Northeastern market. However, these proposals may be prematurely aborted if the FTA is approved since Canada could lock up this market with long term contracts based upon an initial low price. One very real impact of the FTA may be to close markets for Midwestern coal and reduce the prospects for expanding coal production.

The United States has exported coal to Canada, particularly Ontario, for the generation of electricity. These sales are decreasing and probably will be further reduced in the future as reserves of low sulfur coal from Western Canada become available. To the extent that Ontario Hydro actually implements its so-called acid rain control plan (which remains doubtful), the plan could involve the elimination of coal purchases from the United States. Therefore, the current level of these coal exports to Canada is not a basis for supporting the FTA.

III. Specific Questions About the FTA.

A. Impact of the FTA upon the Presidential Permit Process.

Executive Order 10485 established a Presidential Permit requirement for the importation of electricity from a foreign country. This Order is not based upon statutory authority, but upon the President's constitutional authority to conduct foreign relations. The President has delegated the authority to issue such permits to the Economic Regulatory Administration (ERA) within the Department of Energy. The ERA must conduct an environmental assessment, pursuant to the National Environmental Policy Act of 1969 (NEPA), and determine that the proposed importation of electricity will be reliable and will not harm national security. This process is subject to public notice and comment, and must have the approval of the Secretary of Defense and the Secretary of State. In most cases this process calls for an Environmental Impact Statement to be prepared prior to the granting of a Presidential Permit.

The FTA does not indicate specifically that the Presidential Permit process will be abolished, but that possibility is raised by news reports that the FTA is intended to "create a totally free market in energy." In his testimony before the House Subcommittee on Mining and Natural Resources, William F. Martin, Deputy Secretary of Energy stated that the Presidential Permit process would not be abolished. However, Deputy Secretary Martin did not elaborate on the effect the FTA will have on this process or whether it will be substantially changed as a result. It is important that this issue be resolved prior to any approval of the FTA. Without the Presidential Permit process there would be no forum to address the national environmental or reliability considerations of future contracts. The FTA attempts to address the national security concern by providing "guaranteed" access (on a proportional basis) to Canadian energy in the event of a shortage. Congress must determine if a "guarantee" provision and the legal mechanisms to enforce such a provision adequately address this concern.

Elimination of the Presidential Permit requirement could remove all federal environmental review of proposed contracts. Without a Presidential Permit requirement, it could be argued that there would be no "major federal action" to trigger the preparation of an environmental impact statement under NEPA. Environmental assessments might continue to be prepared under applicable state laws, but these laws appear to be inadequate for the following reasons.

First, such assessments would probably be limited to a review of the environmental impacts within the particular state conducting the assessment, if any assessment is required at all. There would be no unified environmental assessment of the entire project. Federal environmental assessments serve as a safety net for such reviews. In addition, NEPA requires that environmental impacts inside Canada be addressed where the contract directly results in the construction of new transmission or generation facilities within Canada. Without the Presidential Permit requirement and the possibility of a federal environmental assessment, these impacts could go wholly unreviewed.

Second, state principles concerning standing and opportunity to comment may be more restrictive than federal principles. Therefore, relying solely upon state environmental assessments effectively may preclude significant portions of the public from providing useful comment on environmental assessments.

In summary, the Presidential Permit requirement is a crucial element both for protection of the environment and national security and Congress should assure itself that this process will not be abolished by the FTA.

B. Impact of the FTA upon Canadian Regulation of Electricity Trade and the Export Price of Electricity.

Canada's National Energy Board ("NEB") regulates power exports from Canada under the 1959 National Energy Board Act. Prior to issuing an export license, the NEB must determine that:

1. The power to be exported is surplus to Canadian needs (this requirement has been referred to as a "first offer" requirement that mandates that Canadian utilities first offer the power to other provinces before exporting it to the United States); and

2. The price charged is in the public interest.

The NEB has established three criteria for determining if the rate charged for the power is in the public interest. The price must:

1. Recover the appropriate share of costs incurred to supply the power;

2. Not be less than the cost to Canadians for equivalent power; and

3. Be reasonably close to the cost of alternative power and energy available to the purchaser (cost avoided).

Generally, the NEB has determined that proposed contracts satisfy these criteria. The NEB also conducts an environmental assessment of those impacts which are created by the international portion of the contract. Without an NEB license requirement, there would be no federal Canadian environmental assessment of such contracts.

News reports from Canada indicate that the NEB's export license authority in this area would be revoked by the FTA. This would have several unfortunate consequences. One impact would be environmental degradation in Canada through the construction of new electricity generation and transmission capacity (nuclear or hydro). The output of this new generation capacity would be dedicated to sale in the United States. Elimination of the federal environmental assessment effectively would eliminate all environmental controls on such construction. Although Canadian provinces generally have the authority to consider environmental impacts of new plant and transmission line construction, Canadian electric utilities also are owned and controlled by the provinces. A direct conflict of interest arises when a province decides to review its own power plant construction plans for environmental compliance.

This factor has special application when a political party, as in Manitoba or Quebec, is elected to power in a province on the platform of building new electricity generation projects. You may have noted how warmly Quebec Premier Robert Bourassa has supported the FTA because it will eliminate many restrictions on the export of electricity. Earlier this year, Bourassa's government unsuccessfully petitioned the NEB to eliminate several of the export criteria discussed above. Bourassa perceives that the FTA would allow Quebec to sell "billions and billions" of dollars of electricity in the United States. The objectivity and commitment of such a government to conduct an effective environmental review of its own project must be questioned.

As noted above, another impact of eliminating NEB jurisdiction could be to lower the price of such imports to American utilities. Since the NEB currently requires that such exchanges be priced at slightly less than the "cost avoided" by the purchasing utility, the Canadian utility often reaps a large profit. This is true particularly where the cost of generation (as for hydro) is significantly less than the cost avoided (as for New England oil-fired generation). The NEB cost-avoided requirement serves as a floor to Canadian prices. As discussed in the next section, elimination of this floor would give full force to the various subsidies that are provided for Canadian electricity and make that electricity appear to be even more economically attractive.

However, given the current wording of the FTA, a completely different scenario also is possible. Reports in both Canada and the United States suggest that under the FTA Canada would not be allowed to charge a higher price for exports than is offered to consumers in Canada. A careful reading of the FTA reveals that the FTA does not mandate this result. The FTA only ensures that domestic Canadian consumers are offered at least as good a price as the price offered to the United States. There is no similar protection for customers in the United States.

With the elimination of the NEB cost-avoided requirement, the regulatory scheme in Canada would still contain a provision requiring that the price charged for exported energy cannot be less than the price charged for domestically produced power. See National Energy Board Part VI Regulations § 6(2)(z)(ii). However, there is no ceiling on the price of exported electricity under the FTA. The only apparent restriction on imposing a higher price for exports than the price charged domestically appears in Article 904 of the FTA. Article 904 allows the introduction of a restriction otherwise justified under two specific Articles of GATT only if Canada does not charge more for exports than the price charged domestically. However, 904(b) is triggered only if Canada were to introduce a restriction pursuant to Articles XI:2(a) and XX(g), (i) and (j) of GATT. These GATT provisions deal with national shortages and conservation of exhaustible natural resources. Absent shortages or potential exhaustion of natural resources, the FTA allows Canada to charge higher rates for its exported power than it charges to Canadian consumers.

This is a crucial question for evaluating the FTA. Although news reports have indicated that Canada must not practice price discrimination in electricity trade, the wording of the FTA does not support such an interpretation. Congress should require this point to be clarified, because without such an assurance, Canada could manipulate the price of its electricity exports in a manner wholly inconsistent with free trade. Somewhat ironically, however, such manipulation would tend to lessen the impact on coal production that an elimination of price discrimination would allow.

C. A Loophole in the FTA - Canadian Subsidies of Electricity Generation.

Part of the growth in the electricity trade from Canada can be traced to the cost differential between hydro-electric power and other generation types. In addition, American utilities face disincentives to building new capacity, particularly nuclear capacity. Nevertheless, Canadian nuclear and coal generated electricity should not have a price advantage over American nuclear and coal generated power. However, such a price advantage does exist because of a variety of Canadian subsidies.

Canadian subsidies lower the cost of generating electricity so Canadian utilities can offer lower rates to its customers in Canada and the United States. A few of these subsidies are:

1. Taxes. Canadian electric utilities pay no sales or property taxes because they are owned by the province in which they operate. Payments in lieu of taxes do not approximate what would be paid if normal taxes were applicable.

2. Shareholder Rate of Return. Since Canadian electric utilities are publicly owned, they are not required to produce a rate of return for shareholders. This also allows the use of highly-leveraged debt to equity ratios in the capital structures of these utilities.

3. Interest Rates. Canadian electric utilities can raise capital by borrowing on the guarantees of their provincial governments. These guarantees result in lower interest rates and lower costs.

4. Environmental Considerations. The cost advantage provided by less stringent environmental considerations in Canada cannot be quantified, but those considerations are analyzed later.

The FTA attempts to address the issue of Canadian subsidies, both for electricity and other trade sectors, through a five year study. In the interim, however, all mechanisms (such as the NEB license requirements) that tend to restrain the full force of such subsidies, may be eliminated. The FTA specifically eliminates the third price criterion as contained in the regulations of the National Energy Board, that the price charged by Canadians to the United States for electricity be reasonably close to the cost of alternate power and energy available to the purchaser has been eliminated. Therefore, during the interim period, Canada's provincially-owned utilities may have an opportunity to market their electricity at a cost that incorporates those subsidies, even though the study may indicate that countervailing tariffs should be imposed to adjust for the subsidies.

This possibility is of particular concern because Canadian utilities are seeking contracts with American utilities for as long as 25 to 30 years. It is possible that Canadian utilities will use this interim period to obtain long term commitments from American utilities even though these contracts ultimately may be determined to have an unfair trade basis. Congress should address this uncertainty and this loophole in the FTA by imposing a moratorium upon the signing of new long term contracts (with a term longer than three years) until the subsidy study is completed.

This moratorium will not adversely affect existing trade in electricity. This trade has grown dramatically in the last 20 years. The majority of the trade has been on an interruptible basis which means that an American utility did not rely upon such electricity but purchased it only when the cost was lower than the American utility could generate with its own capacity. However, Canadian utilities are now seeking to enter into long term contracts to sell guaranteed amounts of electric power. As a result, American utilities now are planning to defer the building of new power plants in reliance upon electricity from Canada. Very few of these long term contracts have been approved. There will be no change in the fundamental basis of this trade by keeping it on a interruptible basis (and away from long term contracts) until the subsidy study is completed. Without a moratorium, the fundamental nature of this trade could be altered for decades even if the subsequent subsidy study finds such pricing to be unfair.

D. Environmental Problems.

One issue in the discussion of Canadian electricity imports escapes economic analysis because it relates to the effect that production and transmission of electricity in Canada has on the environment. Just as the United States exports jobs and income to Canada in exchange for electricity, it also exports the environmental impact of the generation and transmission of that electricity. Yet, environmental quality is not a commodity that can or should be traded. If Canada does not have the political will to prevent harm to its environment in order to obtain additional contracts for electricity sales, the United States has an obligation to ensure that its electricity purchases do not make it an accomplice to ecological damage in Canada.

While Canada does have environmental laws, those laws do not protect the environment to the same extent as environmental requirements in this country. For example, in 1973, Canada passed the Federal Environmental Assessment Review Act which is not as strong as this country's National Environmental Policy Act of 1969. The Canadian Act rarely has been utilized with regard to power plants. For example, the massive James Bay hydro project in Quebec avoided this analysis.

In contrast, American environmental standards are much more rigorous. Environmental impact statements are uniformly required for building power plants as well as prior to the building of transmission lines. Public hearings are required where all interested or adversely affected parties may intervene or offer comments. Canada severely restricts such hearings and limits public participation in the approval process.

There is sufficient factual basis to believe the construction and operation of hydro-electric facilities in Canada may have a deleterious effect on the environment in Canada and in the United States. The construction of James Bay Phase I hydro project by Hydro Quebec involved extensive flooding. This resulted in the reported death of nearly 10,000 caribou and reported mercury contamination of fish in the James Bay area. Methyl mercury produced by the decomposition of vegetation and organic soils has been absorbed by the fish in reservoirs created by James Bay Phase I. This development has caused the Cree Indians, who rely on these fish for a substantial part of their diet, to develop elevated levels of mercury in their blood. These reported problems should be examined before they are allowed to recur in the construction of James Bay Phase II. This Phase is sought by Premier Bourassa solely to sell electricity to the United States.

One report by Hydro Quebec concerning the potential impact of new construction at James Bay indicated that Canadian geese would be "considerably less plentiful" as a result of widespread flooding of nesting and breeding grounds. Canadian geese are protected under the Migratory Bird Treaty between the United States and Canada. However, without an effective environmental assessment, either at the Canadian or United States federal level, it is likely that Hydro Quebec would proceed with construction without a proper assessment.

For several years, Canada has proposed to construct nuclear power plants solely for the generation of electricity to the United States. These power plants would be constructed without the normal public comment and technical safeguards required by the Nuclear Regulatory Commission. It would be ironic if Americans became dependent upon electricity from nuclear power plants just across the border that they would not permit to be built within the United States.

IV. Conclusions.

For all of these reasons, I believe that Congress should seek adequate answers to the questions I have raised before giving its assent to the FTA. These issues are of the utmost importance to maintaining America's energy independence and environmental protection. Without answers to these issues, no one is able to predict the impact of the FTA upon coal production and electricity markets in the United States, although several unsatisfactory scenarios are possible.

Additionally, I recommend that you support passage of H.R. 3525 that has been introduced by Congressman Rahall. This bill is known as the "Environmental Equity Act of 1987." The purpose of this legislation is to prevent the transfer of environmental degradation from the United States to Canada. The United States should not purchase inexpensive electricity from Canada, even in the name of free trade, if the price is kept cheap by allowing degradation of the environment that we would not permit in the United States. Passage of H.R. 3525 would ensure that free trade does not mean that the Canadian environment can be abused freely. The cost of environmental controls, as stringent as the United States applies to itself, should be included in the price of electricity generated in Canada for sale in the United States. This legislation would eliminate the subsidy of Canadian electricity that is caused by lax environmental laws in Canada and also would provide the assurance that American and Canadian citizens would have equal opportunity to comment on actions involving such decisions. Currently, Canadians and Americans are denied that right before the government of Canada. Finally, Congress should assure itself prior to adopting any "free trade" agreement that indeed the trade will be free and fair and that a level playing field exists.

Thank you for the opportunity to address these issues.

General Motors Statement
to the
Senate Finance Committee
Submitted in Support of the
U.S.-Canada Free Trade Agreement

March 22, 1988

General Motors welcomes this opportunity to offer comments to the Senate Finance Committee in support of the United States-Canada Free Trade Agreement (FTA).

The negotiations for a FTA between the U.S. and Canada were begun in the hope that such negotiations would: Lead to the removal of trade barriers between our countries; provide a forum for resolving trade disputes between the U.S. and Canada; and, set an example of international cooperation for the upcoming GATT negotiations.

As the largest vehicle manufacturer, parts manufacturer and private sector employer in both countries, we believe the FTA will encourage economic growth in both countries and benefit our customers and employes. The U.S. motor vehicle industry has enjoyed limited duty-free trade with Canada since 1965 under the provisions of the Automotive Trade Products Agreement (the AutoPact). Our experience shows that freer trade promotes economic growth and job opportunities on both sides of the border. The FTA would allow other industries and their employes to share in these advantages.

The FTA provides an important demonstration of how two countries can open their borders to each other for the best interests and mutual gains of both nations. The agreement would lead to the end of tariffs, the reduction of other trade barriers and an overall clarification and simplification of the processes that guide trade between our two nations.

As a result, costs would be reduced, processes could be streamlined, and consumers and workers in both economies would benefit from more efficient production and higher-quality products.

The FTA would preserve the AutoPact for domestic vehicle manufacturers and allow foreign-owned U.S. auto plants to export duty-free to Canada if they have sufficient North American content. The agreement further provides immediate relief for some problems that have strained U.S.-Canada automotive trade relationships and sets out a plan for continued progress towards the elimination of remaining barriers. Domestic parts manufacturers also stand to benefit by the elimination of tariffs and provisions that encourage North American sourcing of parts. To fully appreciate how the FTA improves the competitive position of the U.S. automotive industry, it is helpful to review the circumstances under which the AutoPact developed and its evolution over time.

History of the Autopact

Prior to the AutoPact, Canadian automotive production was protected by high tariffs and local content requirements that necessitated production at inefficient levels of output. In an effort to promote more efficient production, the Canadian government adopted measures to encourage exports. Objections by U.S. parts producers led to the first U.S.-Canada free trade negotiations in 1965. The AutoPact was the product of those talks.

The 1965 AutoPact provided for the conditional duty-free flow of new vehicles and original equipment parts between the U.S. and Canada. The U.S. limited duty-free entry from Canada to vehicles meeting a 50 percent North American (U.S. plus Canada) rule of origin requirement, to prevent third countries from avoiding U.S. tariffs by shipping through Canada. Canada restricted duty-free imports to automotive manufacturers which agreed to certain production, content and investment conditions, referred to as the "safeguards". However, unlike the U.S., Canada extended to AutoPact members the right to import components and vehicles duty-free from any country into Canada provided they complied with the safeguards.

Following adoption of the AutoPact, U.S.-Canada automotive trade volume increased 24-fold in 20 years and now accounts for one-third of all U.S.-Canadian trade. Additionally, the agreement significantly loosened restrictions on the use of U.S. parts in Canadian vehicles.

Changing Competitive Conditions

When the AutoPact was drafted, the U.S. automotive industry was pre-eminent in world markets. But many changes, unforeseen then, have transpired. The motor vehicle industry has matured into a global industry, and one outcome of this change is the growing interests of third country vehicle manufacturers in North America. Domestic producers and the U.S. and Canadian governments have adjusted to the increasing presence of imports and transplants. In some cases, this adjustment has introduced new strains on the U.S.-Canada trade relationship. For example, in efforts to attract new automotive investment from overseas firms, Canada reinstituted a duty-remission program that allows foreign companies to earn rebates of Canadian duties on imports from third countries by exporting Canadian-made automotive parts to the United States or elsewhere.

The free trade negotiations were needed to temper a potentially difficult situation. It would have been desirable for the talks to have resulted in the elimination of all trade barriers between our two countries. But, the FTA has made important strides and has established the groundwork for freer trade.

The Free Trade Agreement Automotive Provisions

The proposed FTA eases some of the growing strains affecting automotive trade by addressing some of the most troublesome problems. It also establishes a select panel to address emerging automotive industry issues.

Both countries agreed to a more rigorous rule of origin definition to determine eligibility for duty-free shipment between the two countries. The decision to use direct cost of manufacturing instead of a value-added calculation would raise the level of North American content required to qualify for duty-free treatment.

The Canadians would end duty-remission programs. Continuation of these programs could have distorted investment decisions regarding the location of parts and assembly operations. The FTA requires Canada to eliminate export-based duty remission programs with respect to the U.S. immediately and production-based programs by 1995. Although the goal was the immediate termination of all such programs, assurance that these programs will end at a designated time will discourage investment decisions from being based on temporary tariff considerations.

The Canadians will also phase out remaining tariffs on automotive parts and components and allow the sale of used vehicles imported from the U.S. The AutoPact allowed the auto industry to integrate production processes with parts and components made on both sides of the border. The phase-out of remaining tariffs, including duties on tires and aftermarket parts, should encourage further efficiencies and coordination of the production process.

The FTA preserves the benefits of the AutoPact for existing members by "grandfathering" it with minor changes. In response to concern in the

U.S. that extending AutoPact eligibility to third-country producers would bias their production decisions towards Canada, no additional firms would be allowed to join the AutoPact. GM's joint venture with Suzuki, CAMI, however, will have the opportunity to become a member of the AutoPact if it meets the Canadian conditions for duty-free entry.

CAMI's status is attributable to the fact that, unlike other third-country ventures, it is committed to having a high level of North American content. Furthermore, CAMI is the only new firm in Canada with a signed agreement with the government of Canada to meet the AutoPact provisions. That agreement was signed prior to the commencement of negotiations on the FTA.

Currently, U.S. firms can receive tariff reductions for goods imported through foreign trade zones from third countries. The FTA would limit the use of foreign trade zones and duty-drawbacks for goods later exported to Canada. These provisions will increase the cost of importing parts into the U.S. for vehicles produced for export to Canada. However, these costs are minimal when weighed against the substantial benefits offered by the FTA in promoting efficiency and growth for the U.S. motor vehicle industry.

Other Benefits of the FTA

The proposed agreement should promote a more dynamic trading relationship between the U.S. and Canada. This is important because of the tremendous volume of cross-border trade. Both the overall climate of cooperation and specific measures to facilitate dispute resolution should smooth transactions on a day-to-day basis.

The FTA also provides evidence to the world trading community of U.S. willingness to pursue more liberal trading agreements with like-minded countries. In addition, many of the specific elements of the FTA, especially those dealing with trade in services and investment, should serve as precedents for the Uruguay Round of multilateral trade negotiations.

Conclusion

In conclusion, General Motors recognizes that the Free Trade Agreement is not a perfect document. However, it will vastly improve the U.S.-Canada trading environment. While restrictions may remain, the agreement represents a major advancement over the status quo and in the process sends positive signals around the world that the two greatest trading partners can reach such a wide-ranging and clearly mutually beneficial agreement. We urge you, therefore, to support the FTA and, by doing so, to promote economic growth in the United States.

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TESTIMONY SUBMITTED ON THE UNITED STATES-CANADA FREE TRADE AGREEMENT

BY

JAY MAZUR, PRESIDENT, INTERNATIONAL LADIES' GARMENT WORKERS' UNION, AFL-CIO

I appreciate the opportunity to submit testimony for the record on the United States-Canada Free Trade Agreement on behalf of the more than 180,000 members of the International Ladies' Garment Workers' Union. Our members, both in the United States and in Canada, have a deep interest in whether the FTA will affect their jobs. This concern has been intensified in recent years as imports of apparel have grown rapidly in both countries to the detriment of employment in each country.

In this testimony I shall confine my comments to the effects of the FTA on the apparel industry and the employment it provides.

The Agreement permits unlimited duty-free entry into the United States of apparel made in Canada of fabric produced in Canada. Apparel manufactured in the United States of fabric made in the U.S. would receive similar treatment in Canada.

However, duty-free entry from Canada is also permitted for up to 50 million square yards equivalent of foreign fabric in the form of apparel made of non-woolen fabric and 6 million square yards equivalent in the case of apparel made of woolen fabric. The quantity of apparel made in the U.S. of foreign fabric that would be permitted duty-free entry into Canada is about 20 percent of the amount allowed to Canadian shippers.

Shipment of made-up articles knit in Canada of foreign yarn would also be permitted to enter the United States duty-free for the first three years of the agreement.

These provisions permit and encourage the importation into Canada of fabrics and yarn produced in low-wage countries, conversion into apparel in Canada and their subsequent export to the U.S. at prices that would undercut U.S.-made products. Aside from any other considerations, domestic U.S. products could not be competitive at all.

Furthermore, the formal limit on duty-free entry of products made of imported fabric and yarn is likely to be less effective than might be anticipated. It is virtually impossible to determine by examination where a particular fabric or yarn has been produced and even more so after it is converted into apparel. Thus, documentation on the origin of the fabric or the yarn would have to rely on such proofs as invoices and affidavits. As Customs has found in other circumstances, it is not only easy to falsify such documents, but also that there is an incentive to falsify.

One can easily anticipate that large quantities of foreign-made apparel could also be mislabeled to show Canadian origin. This could also occur in the case of apparel produced in Canada made of imported fabric and claimed to be Canadian fabric in origin. This could raise the 50 million and 6 million square yard equivalent figures substantially.

The Agreement contemplates effective cooperation between the U. S. and Canada. As a practical matter, however, under the Agreement's provisions, violation could be extensive.

Apart from the physical inability to distinguish origin of textiles and apparel, the Agreement as written implies an ineffective enforcement effort. Importers and exporters are authorized to certify that the products meet the country of origin rules and, therefore, are entitled to receive FTA tariff treatment. This process would well become a self-serving invitation to fraud.

The clearly set forth aim of the FTA is to eliminate tariff and non-tariff barriers between the U.S. and Canada. Pursuit of this aim would lead to a reduction in the number of Customs agents at the border with the time and ability to subject products to careful examination and laboratory testing. This invites a virtually open border with self-serving paperwork given the most cursory examination before the products are waved ahead.

The Canadian government has agreed to cooperate to prevent violation. However, it really has no incentive to do so under the Agreement as drawn, since Canadian firms could profit from handling the mislabeled products.

The Agreement deals with the tariff status of goods according to country of origin. It does not, however, treat the status of products subject to quotas now in place between the United States and various apparel exporting nations around the world. Products shipped through Canada -- whether or not they are subject to partial manufacturing there -- may be dutiable upon entering the U.S. even though in general duties are being lowered on such products. Even if duty were included, prices may be sufficiently low to encourage circumvention.

Our Customs authorities would have great difficulty in determining country of origin of transhipped products so that they could properly charge the quotas of the appropriate country or countries. We fear that, in the interest of harmonious relations between our two countries, the easy way out may well be chosen, namely, to allow goods to enter as freely as possible.

My final comment relates to the general FTA prohibition on duty drawback on goods that qualify for duty-free treatment. This is a sound principle.. Permitting duty drawback would greatly encourage low-cost third party imports to be re-exported -- whether or not additional work is done -- at the expense of the other country.

However, an exception to this positive stance has been proposed by Canada and is still being explored, I understand. The exception would permit duty drawback on cheap imported fabric converted into apparel and re-exported to the United states.

If the proposal proceeds, it would constitute a subsidy by the Canadian government to Canadian apparel manufacturers. It would result in an important reduction in cost to Canadian manufacturers. If a U.S. firm imported the very same fabric and produced for the U.S. market, it would have to pay U.S. duty on the fabric. Its cost structure would, therefore, be higher than that of its Canadian competitor.

While this statement primarily focuses on impacts to the U.S. apparel industry, it should be noted that some undesirable impacts may also fall on the Canadian industry and its workers. Transhipment of goods through the United States is also a distinct possibility and can have deleterious effects in Canada which also suffers from low-wage apparel imports.

National Governors' Association

John H. Sununu
Governor of New Hampshire
Chairman

Raymond C. Scheppach
Executive Director

H-7. U.S. - CANADIAN TRADE

The Governors support implementation of the Free Trade Agreement negotiated by the federal governments of the United States and Canada. Our support is contingent upon Canada and the U.S. doing nothing in the interim to violate the spirit of the explicit understanding affirmed in writing on January 2, 1988 to "exercise their discretion in the period prior to entry into force of the accord so as not to jeopardize the approval process or undermine the spirit and benefits of the Free Trade Agreement."

The agreement, while not fully addressing all issues relating to our bilateral trade, is expected to contribute to real growth in the economies of both signatories. It represents a positive step toward the open, competitive world trading system that we have endorsed. It provides for more timely and effective resolution of disputes between the two largest trading partners in the world.

Throughout the negotiations, the Office of the U.S. Trade Representative has sought our advice and made it a priority to keep us informed on progress. As the related legislation is developed and debated, we will continue to consult with the administration and Congress regarding its impact on state economies.

Emphasizing the importance of U.S. - Canadian relations, we will continue our meetings with the Canadian Premiers on issues of mutual interest, including options for greater trade cooperation between our two countries.

We believe that efforts should continue to be made to resolve those issues not fully addressed during the negotiations and that remaining inconsistencies with the General Agreement on Tariffs and Trade (GATT) rules should be vigorously pursued. We will work with Congress and the administration and within our states to minimize any adverse effects of the agreement.

The Governors have significant concerns about issues created or not fully resolved by the agreement and ask to be consulted as the implementing legislation or other measures are developed to ameliorate these problems.

The administration should enter into additional negotiations to address inequities regarding subsidies. Fair and open trade for all businesses requires resolution of the reality or perception of unequal treatment of certain industries due to differing national policies on subsidies.

Adopted February 1988.

THE U.S.-CANADIAN FREE TRADE AGREEMENT AND ELECTRICITY IMPORTED FROM CANADA ARE IN THE NATIONAL INTEREST

- Coal industry concerns about electricity imports are based in part on incorrect information relating to Canadian imports -

A statement submitted for the record of Committee on Finance
U.S. Senate, in connection with hearings
held March 17, 1988

Mr. Chairman and Members of the Committee:

My name is Glenn Schleede. I work for the New England Electric System (NEES) which serves customers in nearly 1.2 million homes, businesses and institutions in Massachusetts, Rhode Island and New Hampshire.

I want to start by thanking you for the opportunity to present information that will make two basic points:

- The U.S.-Canadian Free Trade agreement and electricity imports are in the U.S. national and public interest; and
- Part of the concerns expressed by representatives of the coal industry about electricity from Canada is based in significant part on incorrect information relating to those imports.

More specifically, I will explain:

1. The important role that coal already plays in supplying the energy used by NEES Companies in generating electricity.
2. The importance of diversifying the sources of energy used to generate electricity in New England, which has reduced and will continue to reduce dependence on foreign oil.
3. The role of imported electricity is displacing foreign oil -- NOT coal -- in New England.
4. The advantages to the New England region and the nation of the U.S.-Canadian Free Trade Agreement, particularly as it affects electricity and coal.
5. The disadvantages to U.S. residential and business consumers -- and the overall economy -- of protectionist measures which would interfere with low cost imported energy.

In addition, I will provide facts about the role -- or, more correctly, the lack of a role -- in pricing of imported electricity from Canada that is played by:

- Government subsidies to Canadian electricity producers; and
- Differing approaches in the U.S. and Canada to the reduction of sulfur dioxide emissions from powerplants and industrial facilities.

DETAILS

With that brief introduction, let me turn to the detailed information that supports the above summary points.

A. COAL PLAYS AN IMPORTANT ROLE IN SUPPLYING THE ENERGY USED BY NEW ENGLAND ELECTRIC SYSTEM (NEES) COMPANIES IN GENERATING ELECTRICITY.

Recognizing your interest in coal, I want to start by making clear that coal now plays an important role in supplying the energy used by the New England Electric System (NEES) Companies in generating electricity.

1. Six generating units have been converted from oil to coal, with coal now supplying 45% of the energy we use to generate electricity.

   Back in 1979, foreign oil supplied 78% of the energy used by NEES Companies in generating electricity. Starting in 1974, an aggressive program was undertaken to obtain permission to convert 6 generating units from oil to coal. Conversion involved a lengthy process to obtain approvals by appropriate Federal, State and local government agencies and an expenditure of about $300 million.

   The conversion program was completed in 1982 and has been an economic and environmental success. We now use about 3.3 million tons of coal each year and avoid the importation of about 12 million barrels of oil. During 1988, coal will supply about 45% of the energy we use to generate electricity.

2. A unique coal-fired, self-unloading collier carries coal to our generating stations.

   A NEES subsidiary is the majority owner of a unique coal-fired self-unloading collier that carries coal -- originating principally in West Virginia, Virginia and Pennsylvania -- from East Coast ports to our generating plants in New England. This ship, launched in 1983, makes a round trip each 4.5 days on average, completing about 80 voyages per year. Thus far, it has carried more than 12 million tons of coal.

3. Contracts have been signed with cogenerators that plan to use coal in fluidized bed boilers to generate electricity and steam.

   The New England region has experienced rapid increases in the demand for electricity and needs additional sources of supply. NEES Companies have been active in considering all alternatives for assuring an adequate and reliable supply of electricity at lowest cost for our customers. This includes new sources of supply and load management and conservation programs to hold down electricity demand.

   Potential sources of supply include independent power producers and cogenerators. NEES Companies now obtain electricity from such sources equivalent to about 250 megawatts of capacity and we have under contract sources equivalent to an additional 420 megawatts of capacity.

   Among the cogeneration facilities under contract are two planned cogeneration facilities that will use coal in fluidized bed units. In total, these two facilities would provide the New England region with 254 megawatts of generating capacity.

B. THE NEW ENGLAND REGION IS DIVERSIFYING ITS ENERGY SOURCES FOR ELECTRICITY AND HELPING TO REDUCE NATIONAL DEPENDENCE ON FOREIGN OIL.

The oil supply interruptions and rapid price increases of the 1970's demonstrated to many, including the electric utilities in the New England region, that excessive reliance on any one energy source was not the best way of providing a reliable and adequate supply of electricity at lowest possible cost. Accordingly, actions have been taken to diversify energy sources.

1. Oil supplied 72% of the energy to produce electricity for the New England region in 1972, but is expected to supply only 17% by 1993.

The electric utilities making up the New England Power Pool (NEPOOL) have made great progress in diversifying the energy sources for the electricity needed for the New England region. Attachments 1 and 2 to this statement and the table below shows this progress.

NEPOOL ENERGY MIX - PERCENT BY SOURCE

				Estimated*	
Energy Source	1972	1979	1987	1993	2000
Hydro	7%	6%	5%	4%	4%
Hydro-Quebec	-	-	4%	10%	5%
Nuclear	13%	32%	28%	36%	31%
Coal	4%	3%	16%	16%	14%
Alternates**	-	-	-	6%	5%
Natural Gas	-	-	5%	7%	14%
Oil	72%	53%	32%	17%	26%
Purchases	3%	6%	10%	3%	1%
Total	100%	100%	100%	100%	100%
Gigawatt Hrs.	70,113	83,839	105,137	110,392	129,456

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* Based on contracts in place plus planned alternate energy and natural gas projects.

** Alternates for 1972, 1979 and 1987 are included in other categories.

As you can see from the above table, dependence on oil has been reduced substantially since 1972, with increased reliance principally on coal, nuclear energy and imports from Hydro-Quebec.

2. Diversifying energy supply sources has proven to be sensible policy in New England and elsewhere.

The progress made in the New England Region and elsewhere throughout the world has demonstrated that reliance on imported oil can be reduced and that diversification of energy sources reduces the potential impact of interruption of any one source.

In short, experience has demonstrated that diversification of energy supply sources is a sensible policy.

C. IMPORTED ELECTRICITY IN NEW ENGLAND DISPLACES OIL -- NOT COAL.

Concerns have been expressed by some people in the coal industry that electricity from Canada may be displacing coal. That concern is not supported by the facts in New England and appears not to be a serious problem in other areas of the U.S.

1. Lowest cost electric generation is brought into service ahead of higher cost sources.

First, it is important to recognize that 93 electric utilities operating in the New England region have organized themselves into the New England Power Pool (NEPOOL). Among its responsibilites, NEPOOL controls the dispatching of all electricity, regardless of who owns the generating capacity or has signed the contract for purchase of power from outside New England.

The governing principal in the dispatching of this electricity is that the lowest cost source of supply is dispatched first. Savings achieved by this system of "economic dispatch" are then shared among the participating utilities.

2. NEPOOL entered into agreements with Hydro-Quebec for substantial amounts of imported electricity at low cost.

In 1983, Hydro-Quebec and New England officials reached agreement on the first phase of an arrangement under which the neighboring power systems agreed to build transmission facilities that would enable NEPOOL to import 33 billion killowatt-hours of electrical energy from Hydro-Quebec over an 11-year period beginning in 1986. Phase I transmission facilities with capacity to transmit 690 megawatts of power went into service in 1986.

In 1985, the parties reached agreement on Phase II which provided for the construction of an expanded transmission interconnection with a total transfer capacity of 2000 megawatts. Purchases from Hydro-Quebec increase the energy diversity of New England's bulk power supplies and are expected to meet nearly 10% of NEPOOL's electrical requirements in 1991.

3. Under the NEPOOL economic dispatch system, electricity from Hydro-Quebec backs out oil-fired generation.

Electricity from Hydro Quebec takes its place among the potential sources of electricity available for dispatch. The price for most of the electricity available under NEPOOL's contract with Hydro-Quebec is based upon a percentage of the average cost of generating electricity with fossil fuels (oil, coal and natural gas) in New England.

Except for a short period of time during 1986, coal has been the lowest cost source of fossil-fueled generation, natural gas obtained on an interruptible basis, the next lowest and oil the highest.

Under the pricing arrangement for electricity from Hydro Quebec, that electricity is almost always cheaper than oil, and has displaced the highest cost fossil-fueled source which, except for the short period during 1986, has been oil -- NOT coal.

Attachment #3 to this statement illustrates NEPOOL's Load Duration Curve & Fuel Mix of Generation. This graph shows the mix of generation sources according to variable cost -- with domestic hydro being lowest, followed by nuclear, coal, imports from Hydro-Quebec, oil and, finally, peaking units (pumped storage and internal combustion generating units).

As you can see from this graph, it is oil and peaking units that are displaced by electricity from Hydro-Quebec. Coal-fired generation is not displaced as long as it remains less expensive than oil-fired generation.

D. CANADA IS AN IMPORTANT SOURCE OF LOW COST ENERGY THAT BENEFITS U.S. CONSUMERS AND THE U.S. ECONOMY, AND PROVIDES AN IMPORTANT MARKET FOR U.S. PRODUCTS, INCLUDING COAL.

Extensive and detailed information, which I shall not attempt to repeat, has already been made available to the Congress by the Executive Branch on the important benefits of energy trade between the U.S. and Canada. However, I will summarize five key points that appear important to your deliberations:

1. Canada is now the largest purchaser of U.S. coal.

First, during 1987, Canada imported nearly 16 million tons of coal from U.S. producers -- the largest amount imported by any one country -- at a price of about $650 million.

2. Canada is the largest foreign supplier of electricity, oil, natural gas and uranium.

Second, Canada is the largest supplier to the U.S. of:

- Low cost electricity produced by hydro-electric plants and by nuclear and coal-fired plants
- Natural gas
- Oil
- Uranium

3. Canada offers the most secure source of imported energy available to the U.S.

Third, great concern is expressed in national energy policy debates over the potential for excessive reliance by the U.S. on foreign energy sources. Often participants in those debates conveniently overlook the substantial differences among the various sources of imported energy.

In fact, there are wide differences in the relative security of the various forms and sources of energy. It is intellectually dishonest to lump together, for example, oil from the Persian Gulf and oil, natural gas or electricity from Canada. The sources of the Nation's imported energy differ widely in terms of:

- Distances,
- Ease of diverting supplies to another buyer,
- Transportation modes,
- Implications of capital investments, particularly in transportation (e.g., transmission lines and pipelines),
- Policies of the exporting country, and
- Relationships between the importing and exporting countries.

Hydro-Quebec, for example, is making a large investment -- approximately $1 billion -- in transmission facilities to bring electricity to New England. That investment will be a wise one only if those lines are used over a long period of time.

4. Exchanges of electricity among neighboring utilities provides important efficiency gains, helping to hold down cost.

Fourth, the interconnection of utility systems offers important efficiency gains, particularly when the systems have peak loads that occur at different times.

All electric systems must have extra capacity to help assure that electricity will be available in times of peak demand or when generating units or transmission lines are not available, for example, for planned maintenance or unexpected outages.

When neighboring systems are interconnected, they can share electricity, making it unnecessary for each system to have capacity to cover all contingencies. Such interconnections are an important way of avoiding unnecessary capital investments and thus help hold down the cost of electricity for consumers.

The advantages are particularly important when neighboring systems or power pools have different peak demand periods, which is often the case with neighboring systems in the U.S. and Canada. Canadian systems tend to experience their periods of highest demand during the winter. U.S. systems are more likely to experience peak demand during the summer.

5. Energy trade with Canada is an important source of revenue to permit Canadians to buy U.S. products.

   As illustrated above, Canada is an important source of secure, low cost energy and contributes to efficiencies which help hold down costs to U.S. consumers.

   I should also note that the revenue flowing to Canada helps make it possible for Canada to be the largest single market for the export of U.S. goods and services, thus contributing to a stronger economy and more jobs in the U.S.

E. THE U.S.-CANADA FREE TRADE AGREEMENT (FTA) HELPS ASSURE THAT CANADA WILL BE A SECURE SOURCE OF LOW COST ENERGY FOR THE U.S. AND A GOOD MARKET FOR U.S. PRODUCTS.

Executive Branch officials have also made available to the Congress extensive information -- which I will not attempt to duplicate -- on the advantages of the U.S.-Canada Free Trade Agreement in assuring that Canada will continue to be a secure source of low cost energy for the U.S. and a good market for U.S. products.

Instead, I will merely mention several of the provisions pointed out by Department of Energy Officials that have special importance in New England. These particularly important features of the Agreement are:

- Eliminate discriminatory pricing in energy trade, assuring that consumers in both countries are treated equitably;
- Prohibit restrictions on imports and exports, including quantitative limitations, import and export taxes and minimum export prices;
- Limit the circumstances under which one country may reduce import from or exports to the other, which will help assure continuing energy supplies to consumers; and
- Allow for free trade in uranium, including elimination of the Canadian requirement that uranium exports be upgraded in Canada, and the U.S. will continue its policy of not imposing restrictions on domestic enrichment of Canadian uranium.

F. PROTECTIONIST MEASURES APPLIED TO ENERGY IMPORTS WOULD HARM U.S. ECONOMIC INTERESTS.

During the past 3 years, your Committee has held a number of important hearings on potential protectionist measures that might be applied to certain sources of imported energy. I recognize that coal producers and miners, in particular, are frustrated when alternative sources of energy are available at lower cost. They are concerned with the loss of potential markets and jobs and would like protection against lower cost competitors.

The desire of domestic coal producers to limit competition is understandable. However, I believe it is also important that your Committee take into account:

- The obligation that electric utilities have to their customers, and
- That protectionist measures limiting access to low cost sources of energy would be detrimental to U.S. consumers and the U.S. economy.

1. Electric utilities have an obligation to provide an adequate and reliable supply of electricity at lowest possible cost.

   As you know, electric utilities have an obligation to provide an adequate and reliable supply of electricity at the lowest possible cost. This is a special problem in the Northeast where electricity costs tend to run higher than the national average.

   As pointed out earlier, NEES has converted 6 generating units to coal to diversify energy sources and provide electricity at lower cost than is possible with the use of oil.

   We have also participated in NEPOOL arrangements to obtain electricity from Canada. Clearly, we would not be interested in importing electricity into New England if it were not a low cost source of supply.

2. Low cost electricity helps hold down consumers' energy costs, leaving them more money to spend on other goods and services.

   Our actions to hold down electricity costs are providing important economic benefits within and outside the New England region. When we are able to hold down electricity costs, individual consumers have more money remaining that can be used to purchase other goods and services produced within New England and elsewhere, thus contributing to a stronger national economy and more jobs.

3. Low cost energy supplies help U.S. business hold down the cost of their products and services and compete in world markets.

   As electric utilities hold down electricity costs, business and industrial customers are able to translate the savings into lower prices. Lower prices benefit their customers throughout the U.S. and make it easier for our business and industrial customers to compete in world markets.

4. A DOE Study demonstrates that limiting electricity imports from Canada would drive up consumer costs and increase U.S. dependence on imported oil.

   A recent analysis by the Department of Energy's Energy Information Administration (EIA) serves to highlight the advantages of imported electricity from Canada. The EIA study analyzed the effects of the elimination of electricity imports from Canada. In brief, that analysis showed that elimination of electricity imports would:

   - Increase U.S. coal consumption by about 1 million tons (2 million tons by the year 2000).
   - Reduce exports of U.S. coal to Canada by 4 to 5 million tons.
   - Increase oil imported into New England by more than 65%.
   - Sharply increase electricity prices in New England.

5. Protectionist measures merely delay the time when actions must be taken to meet competition and make eventual adjustments more difficult.

U.S. coal producers and miners have done an excellent job, particularly during the past six years, in improving productivity and bringing down coal prices. Undoubtedly, these actions have helped keep U.S. coal competitive in many markets. Still, the challenge to maintain or improve competitiveness remains and more actions -- particularly in bringing down high transportation rates -- will be necessary.

While protectionist measures are often tempting, experience in the U.S. has often demonstrated that such measures drive up costs for U.S. consumers, selectively harm other sectors of the economy, and merely delay the time when adjustments are made because of the need to become more competitive. Furthermore, once adjustments become inevitable, experience has demonstrated that they are often more painful to individuals, organizations and regions than they would have been if adjustments had been made earlier to improve productivity and bring down costs and prices.

G. OPPONENTS OF ELECTRICITY IMPORTS FROM CANADA HAVE INCORRECTLY DESCRIBED THE ROLE OF SUBSIDIES IN PRICING ELECTRICITY FROM CANADA.

During the past year, certain opponents of imported electricity from Canada have attracted considerable attention. Those opponents have incorrectly described the role of subsidies in pricing electricity from Canada. Four points concerning the role of subsidies are particularly important:

1. First, electricity sold by most Canadian power producers is market priced, not cost based.

The assertions by opponents of imported electricity from Canada have ignored the fact that electricity sold by most Canadian power producers to U.S. utilities is market-priced rather than cost-based. The fact that this point is overlooked is understandable since most electricity sold in the U.S. is regulated and the price charged is based upon the cost of providing that electricity, commonly referred to as "cost of service" regulation.

Most Canadian electricity sales to U.S. utilities are market-priced. Prices for Canadian electricity are negotiated on an "arms length" basis between the Canadian utility and the U.S. utility purchaser. Those negotiations typically take into account the alternative sources of electricity available to the buyer.

2. Second, Canada's National Energy Board rules require that the export price be at least high enough to recover costs, including explicit and implicit subsidies.

Electricity exports to the U.S. must be approved by Canada's National Energy Board (NEB). The NEB has had three criteria that must be met before an export permit was granted:

a. The export price must recover the appropriate share of costs incurred in Canada. In a June 1987 decision, the NEB made clear that the export price must include all costs borne by Canada, including environmental, land use and economic costs associated with the imports. The NEB's June 1987 decision also made clear that the export price must include both implicit and explicit subsidies.

b. Canadian exporters must demonstrate that the price they are charging will not be less than the price they give Canadians for equivalent services in related areas. The NEB has insisted that electricity be offerred to neighboring Canadian provinces before an export license is approved.

c. Exporters were required to demonstrate that the price they were charging would not be less than the least cost alternative in the purchasing utility's franchise area.

This third test is eliminated by the terms of the U.S-Canada Free Trade Agreement, thus helping to assure that the imported electricity will be priced at market rates.

3. Third, subsidies provided to Canadian electric utilities are much like those provided to some energy producers in the U.S.

The third point that is often overlooked is that governments in the U.S. provide certain subsidies to some energy producers, including producers of electricity, that are much like those provided to Canadian producers of electricity.

a. Subsidies in Canada.

In Canada, subsidies include:

- Canadian electricity producers are generally provincially owned crown corporations and thus excluded from paying either Federal or provincial corporate income or sales taxes.
- Long-term debt of Canadian provincial utilities may be guaranteed by provincial governments, thus resulting in lower interest rates.
- Less responsibility to pay a return on equity investments from provincial governments.

In addition, some subsidies may be involved in the form of:

- Government appropriations.
- Government provided accident insurance for nuclear facilities.
- Water royalties at less than true economic cost.
- Relatively high debt to equity ratios, made practicable by the government backed debt.

b. Subsidies in the U.S. Similar subsidies are certainly not unknown in the U.S. Some electric utilities in the U.S. -- principally Co-ops and publicly owned utilities (e.g., municipals, state power authorities, TVA) -- enjoy such subsidies as:

- Freedom from Federal, state and/or local taxes.
- Subsidized loans, with rates well below market levels.
- Loan guarantees, resulting in below market rates.
- Preferential access to low-cost power from hydro-electric projects constructed with Federal tax dollars.
- Forgiveness of prepayment penalties for loans (granted by the U.S. Congress in late 1987, at a cost to the U.S. Treasury estimated to be in the billions).
- Access to financial markets through the Federal Financing Bank, and resulting in below market interest rates.
- Access to tax-free industrial development bonds.
- Low cost or no cost access to water.

Electric utilities and other energy producers subject to Federal corporate taxes have, until the Tax Reform Act of 1986, enjoyed tax benefits in the form of investment tax credits. Rapid amortization of investments for tax purposes are still available though the amortization period was lengthed by the 1986 Tax Act.

In addition, the coal industry has benefitted somewhat from such subsidies as:

. Federally funded research, development and demonstration, and
. Forgiveness of substantial interest charges on funds borrowed from the U.S. Treasury by the Black Lung Trust Fund.

The U.S.-Canada Free Trade Agreement does not at this time eliminate subsidies on either side of the border.

4. Electricity from Canada can compete successfully with electricity produced in the U.S. because Canada has substantial capability to produce low-cost electricity, particularly from hydro sources.

The underlying factor that is often ignored by opponents of imported electricity from Canada is that Canada has substantial capability to produce low cost electricity because of an important natural resource in the form of massive hydro power.

This natural resource can be turned into hydro-electricity and transmitted to the U.S. at lower cost than electricity can be produced from fossil fuels in large parts of the U.S.

H. CANADIAN ENVIRONMENTAL REQUIREMENTS ARE DIFFERENT FROM, BUT NOT NECESSARILY LESS STRINGENT THAN, U.S. REQUIREMENTS.

Another argument made by opponents of electricity imported from Canada is that Canada has less stringent environmental requirements than the U.S., thus giving Canadian electricity an unfair cost advantage.

The facts about environmental requirements certainly deserve attention. In summary, as explained below, Canadian environmental requirements are different from, but not necessarily less stringent than, U. S. requirements.

1. Sulfur dioxide requirements. The principal focus of opponents to imported electricity appears to be on sulfur dioxide, since Canadian citizens and the Canadian government have been very critical of such emissions from U.S. powerplants and have claimed that they contribute substantially to "acid rain" falling in Canada.

A comparison of the sulfur dioxide situation in the U.S. and Canada reveals the following:

a. Provincial governments have the primary authority to set ambient air quality standards and impose emisssion controls to achieve them. The Canadian federal government has more limited authority than the U.S. federal government.

b. By mid-1987, five provinces (Ontario, Quebec, New Brunswick, Alberta and Saskatchewan) had adopted enforceable ambient sulfur dioxide (and nitrogen oxides) standards that are different from, but not necessarily less stringent than, U.S. ambient standards.

c. The Canadian federal government has negotiated an acid rain control program with the seven Eastern Canada provinces which are the principal sources of sulfur emissions (Ontario, Quebec, Manitoba, New Brunswick, Nova Scotia, Newfoundland and Prince

Edward Island) which would reduce sulfur emissions by 35% from 1980 actual emission levels by 1994; i.e., from a total of 3.8 million tons to 2.5 million tons.

d. The province of Ontario which was the largest contributor of sulfur dioxide emissions in 1980 (1,773 thousand tons) has agreed to reduce emissions by 60% (to 885 thousand tons) by 1994.

e. The province of Quebec which was the second largest contributor of sulfur dioxide emissions in 1980 (1,098 thousand tons) has agreed to reduce emissions by 45% (to 600 thousand tons) by 1994.

f. The agreed upon provincial emission limits are in terms of total tonnage reductions, allowing provinces to come up with the most cost effective way of achieving that target.

2. Environmental implications of Canadian hydro-electric facilities are thoroughly reviewed.

In Canada, jurisdiction over environmental impact of hydro generation is vested in Provincial governments. Quebec, Manitoba and British Columbia each have differing procedures for the review of new generating projects.

According to information published by the National Energy Board, all three require environmental impact assessments. In Quebec, the provincial cabinet has final authority to approve a project. The Ministry of Environment provides an Environmental Impact Statement at least 45 days prior to the Cabinet decision. During that time, any citizen may request a public hearing on the project, the results of which are considered by the Cabinet in its decision. In Northern Quebec, approval of projects is based on agreements negotiated with Indian and Inuit groups, represented by the Federal Department of Indian and Northern Affairs.

Furthermore, electricity cannot be exported from Canada without an export license from the National Energy Board (NEB). The NEB's formal review procedure includes public hearings and an opportunity for intervention by all interested parties. NEB must find that the price is "just and reasonable" in order to grant an export license. The NEB broadly interprets this criterion to require that all costs are to be recovered. The NEB's review includes environmental and social impacts, and other aspects of full social costs.

3. A fair assessment of Canadian environmental requirements is warranted.

Those who criticize Canadian environmental requirements should keep two important points in mind:

a. Environmental requirements in Canada are different from requirements imposed in the U.S. However, Canada differs substantially from the U.S. in terms of industrial structure, geography, division of powers among levels of government and many other ways. It is unfair to pick out one part of U.S. environmental regulation in isolation and seek an identical requirement in the Canadian system to determine relative stringency of the requirements.

b. Looking for a Canadian counterpart for the U.S. New Source Performance Standards (NSPS) -- which, in effect, require installation of scrubbers -- is unrealistic. It must be kept in mind that adoption of a scrubber requirement in the U.S. was in part designed to protect markets for high sulfur coal. In many cases, scrubbers are not the most cost effective means of achieving emission reductions or ambient air quality standards. It appears that the Canadians have adopted a more cost effective approach.

I. CONCLUDING COMMENTS.

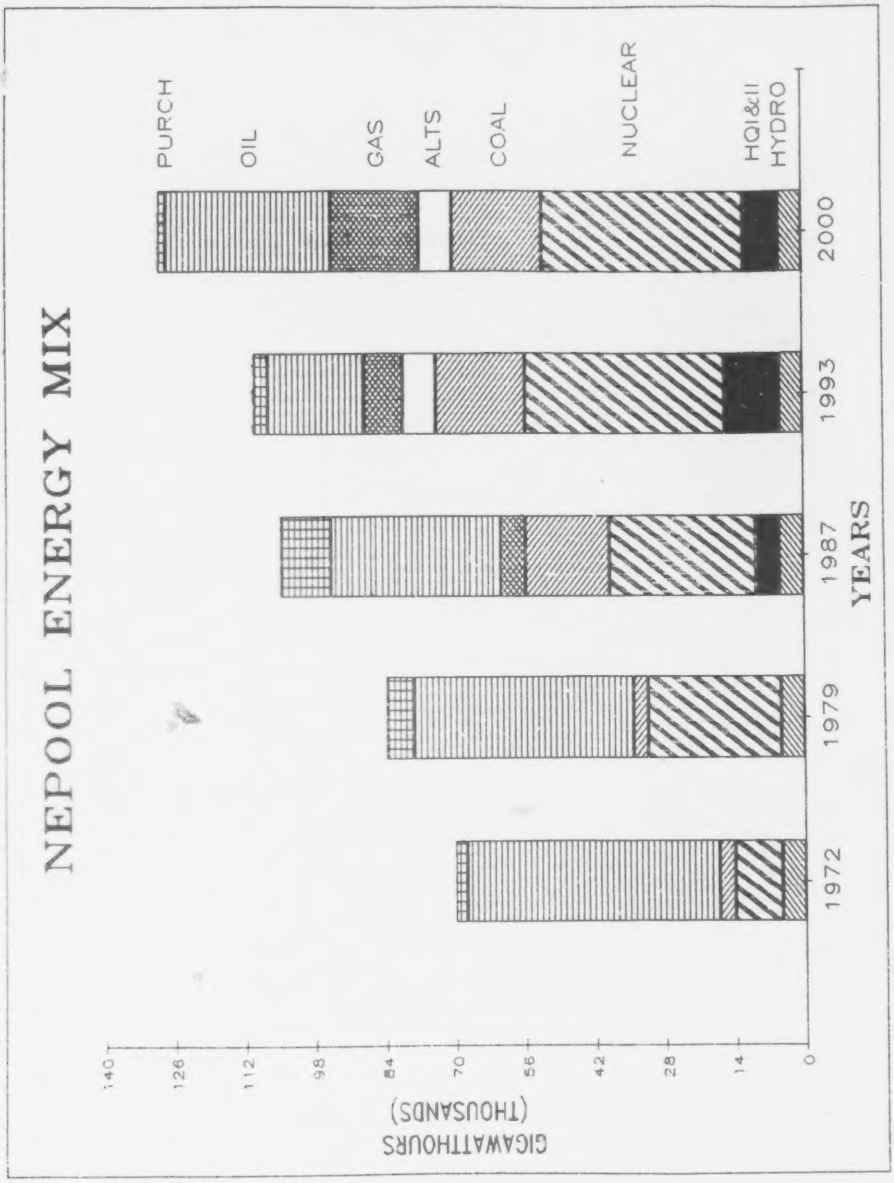
In brief summary:

. Imported energy from Canada provides secure, low cost energy sources that make an important contribution to the economic strength and energy security of the U.S.

. Canada provides an important market for U.S. products and services, including a market for some 16 million tons of coal.

. The U.S.-Canada Free Trade Agreement provides added assurances of free and fair trade, benefitting the citizens of both countries.

ATTACHMENT #1



ATTACHMENT #2

NEW ENGLAND POWER POOL (NEPOOL) ENERGY MIX
- In Gigawatt Hours -

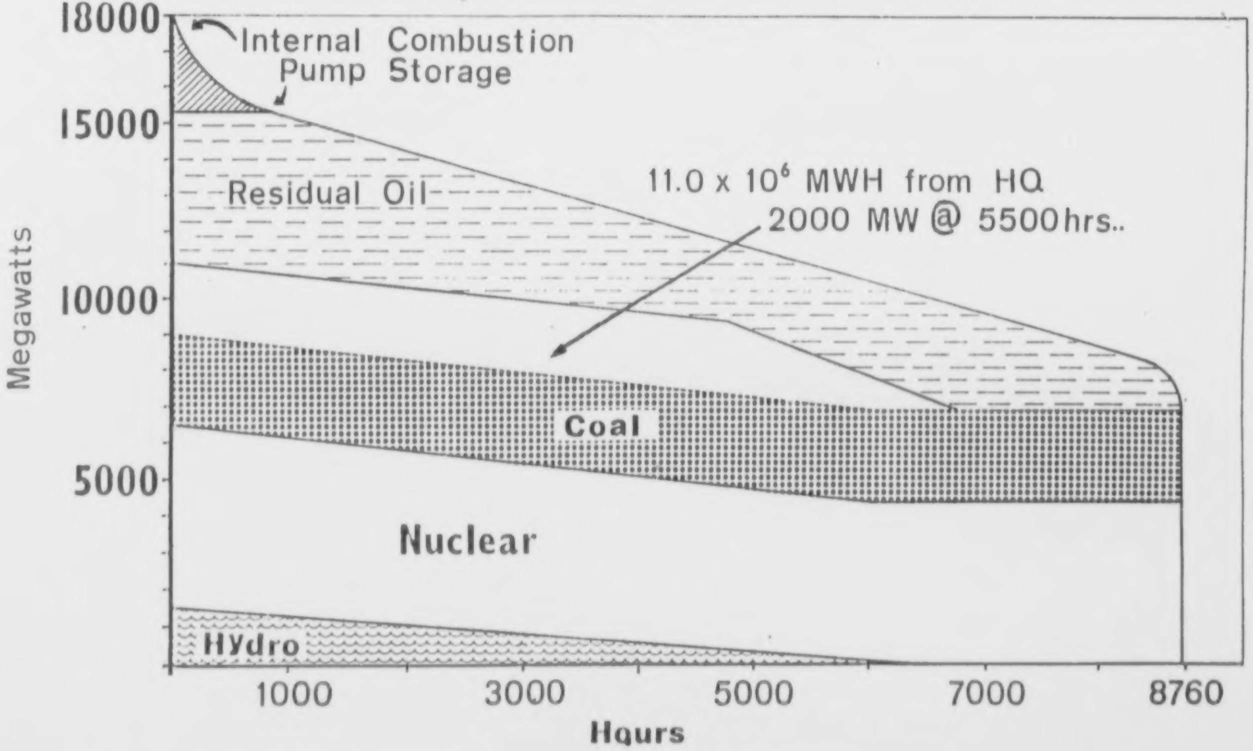
	Actual			Projected	
Energy source	1972	1979	1987	1993	2000
Hydro	4,802	4,748	4,940	4,716	4,702
Hydro Quebec	0	0	4,773	11,000	7,000
Nuclear	9,383	26,732	29,321	40,133	40,585
Coal	3,053	2,804	15,868	17,794	18,048
Alternates	(a)	(a)	(a)	6,735	6,734
Natural Gas	0	0	4,988	7,815	17,665
Oil	5,0651	44,208	34,062	19,216	33,026
Purchases	2,224	5,347	10,185	2,983	1,696
Total[b]	70,113	83,389	105,137	110,392	129,456

(a) Alternates is included under other categories in the 1972, 1979 and 1987 columns.

(b) Totals include pumped storage losses.

ATTACHMENT #3

NEPOOL - 1991 Load Duration Curve & Fuel Mix of Generation



RECOMMENDATIONS ON THE FREE TRADE AGREEMENT
PREPARED BY THE NORTH DAKOTA FARMERS UNION
FOR PRESENTATION AT THE
SENATE FINANCE COMMITTEE HEARING
MARCH 17, 1988
WASHINGTON, DC

My name is Alan Bergman. I am President of the North Dakota Farmers Union, which is a family farm organization of over 32,000 family farm members in the state of North Dakota.

The Farmers Union has had a long history of supporting the concept of free trade. Farmers have long realized that their only hope of expanding markets for the excess food and fiber we produce lies in open access to the markets of the other countries of the world.

It is only natural that we would look to our largest trading partner, our neighbor to the north, Canada, as a number one potential for expanding export markets. With these expectations in mind, we were deeply disappointed by many of the provisions contained in the Free Trade Agreement and their largely detrimental effect on North Dakota agriculture.

The negotiators who worked on the Free Trade Agreement found that there were many issues that were very difficult to resolve. However, in their quest for some kind of free trade agreement, they chose to ignore issues that we feel fatally flaw the final agreement.

The eleventh hour nature of the final acceptance of the agreement and the procedures by which Congress must act on this Free Trade Agreement give us great concerns. A complex agreement affecting many facets of business between two giant economic trading partners, adopted on a fast track, 60 to 90 day time frame, strikes us as extremely dangerous. Adding amendments to the agreement would be impossible.

Should the agreement be accepted, and should there be necessity for correction, there is no real mechanism for settling disputes effectively and fairly.

The Free Trade Agreement, as drafted, is very favorable to the financial community and the service industries which predominate on both coasts of the United States. The agreement is not favorable to citizens who live in a high-producer, low-consumer economy such as North Dakota.

We believe that concessions made to guarantee adoption of the Free Trade Agreeement favor the financial and service sectors of the economy at the expense of the production and agricultural sectors.

The Free Trade Agreement is seriously flawed in that it does not address a series of major issues which must be resolved before a fair trading system can evolve for either of our nations.

Major Issues

1. The exchange rate

   Canada enjoys a 30 percent advantage in exchange rates. Until our currencies are equal, or this exchange rate discrepancy is taken into account, U.S. agriculture will be at a serious disadvantage.

2. Transportation subsidies

   Canada is allowed to maintain its CROW rates when exporting grain to U.S. eastern ports. This concession greatly disadvantages U.S. producers in the upper Midwest.

3. Loss of Section 22

   Forbidding the United States to raise quotas while allowing the Canadians to maintain their system of export licenses seriously disadvantages U.S. producers in many situations and allows them no redress via the import quota method.

4. Major differences in the grain marketing system

   Canada maintains a two-price system and protects the domestic producer by pricing domestically consumed grain at a relatively high rate while pricing export grain to meet competition. Canada markets its grain through a central marketing system which allows it a much greater market power than is available to a U.S. producer. The U.S. market is also a bigger target for Canadian grain exports than vice versa.

5. Very restrictive Canadian regulations

   Canada maintains an import licensing program which can only be utilized to import grain when no Canadian grain is available and grain can only be imported to a specific site. Canada has no protein premiums which are very important to marketing grain in the U.S.

6. Sugar provisions

   Products with ten percent or less sugar content would move duty free. This concession would permit U.S. sugar users to move to Canada and utilize cut-rate world sugar to undermine the U.S. sugar program.

7. Energy issues left unresolved

   The Canadian government owns much of Canada's electrical energy producing facilities. This allows their government to subsidize the production and sale of the electrical energy. Many times, that energy is marketed at avoided costs, which are very difficult

> for U.S. energy producers to compete with. The Canadian government maintains environmental standards which are much below those required of U.S. producers. Both in the area of land reclamation and stack emissions, the Canadian requirements are considerably less stringent. In addition, Canadian free-access to U.S. energy markets would cost North Dakota approximately 4,000 jobs. An economy such as ours, suffering from the agricultural and energy recessions, could not withstand such a major adverse impact.

While these major shortcomings in agricultural and energy trade policies would be enough to warrant the rejection of the Free Trade Agreement, we feel that its major fundamental error is that it is a bilateral agreement which attempts to address issues that can only be effectively addressed by a multilateral agreement.

The governments of the United States and Canada are committed to a policy of phasing out all so-called agricultural subsidies in ten years. This agreement, as presently drafted, is to be used at the Uruguay Round of the GATT negotiations to further that goal. Rather than using the battering ram approach, the course we are currently on, we urge that all the trading countries of the world participate in a world-wide conference to address the issues which are restricting free trade in agriculture and resolve those issues on a multilateral basis.

The bilateral Free Trade Agreement between the U.S. and Canada will fall woefully short of the goals of such a world-wide negotiating session. In fact, it has the potential of generating adverse sentiment and escalating the already tense situation in world trade.

Lastly, I would like to address the proposed method to resolve disputes which will inevitably arise. The United States and Canada would empower a five-person panel to moderate disputes between two sovereign countries. It seems that this proposed methodology gives away too much of each government's power to a non-government entity which would operate outside established channels. This is an untested idea, open to many questions as to effectiveness and constitutionality. The idea is certainly an innovative idea, and innovative ideas are not inherently bad; however, this dispute settlement provision is also on a very fast track as is the entire Free Trade Agreement. We urge caution before implementation of such a powerful independent board.

The Free Trade Agreement as it has been proposed for ratification without amendment is a most ill-advised and damaging agreement for the state of North Dakota. There are many issues which the negotiators have left unresolved to achieve an agreement in the closing hours of the negotiating period. These very sticky issues must be resolved before any long-term and fair trade policy can be established between our two countries.

I would also like to draw your attention to a document called "Priorities in U.S. Trade Legislation," which is the recommendation of the National Farmers Union as submitted to the U.S. House Committee on Agriculture, dealing with the Free Trade Agreement. I ask that this document be included as part of our testimony and part of the record.

Again, we recommend disapproval of the Free Trade Agreement and ask Congress not to ratify the document as currently drafted and instead, resubmit it for renegotiation.

Thank you very much.

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE

SUMMARY OF

THE U.S.-CANADA FREE TRADE AGREEMENT

February 1988

STATEMENT BY THE PRESIDENT

I am pleased to announce that Prime Minister Mulroney and I have today entered into an agreement to establish a free trade arrangement between the United States and Canada.

In the truest sense, this is an historic agreement for both sides. We will strengthen what is already a deep friendship between our people by enhancing economic opportunities and creating jobs in both countries. Moreover, the agreement firmly establishes that the trade environment between the two countries will in the future be founded on the principle of free and open trade.

This comprehensive agreement will benefit many sectors of the U.S. economy. Canadian and American tariffs will be phased out completely, saving consumers hundreds of millions of dollars while also improving our export opportunities. It will secure access to Canada's market for American manufacturing, agriculture, financial services, and high technology; improve national security through energy sharing; and provide important investment opportunities. Canada will benefit from the agreement in many of these same ways; the pact is truly reciprocal. As the agreement goes into effect, Canada's access to our large domestic market will grow, and Canadian industrial centers will gain opportunities to develop even more important roles in the economy of North America.

The agreement to establish a free trade area has important international implications as well. It will encourage supporters of free trade throughout the world by demonstrating that governments can remove trade barriers even in the face of protectionist pressures. We hope that the U.S.-Canada example will help set the tone for the Uruguay Round multilateral trade negotiations.

Our negotiations with the Canadian government leading to this agreement incorporated advice from Congress, industry, agriculture, and labor. Our Congress, as well as the Canadian Parliament, will review the agreement fully over the next several months. As this process begins, both sides should be mindful that the decisions they make will help shape the relationship between our countries in the years to come, and will send a signal to the rest of the world.

The creation of the world's largest free trade area will be a mark of leadership and presents an historic opportunity to the United States and Canada. We must not let this opportunity slip from our grasp.

# # #

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release January 2, 1988

FACT SHEET

U.S.-CANADA FREE TRADE AGREEMENT

The United States and Canada have entered into a free trade agreement that, if approved and implemented, will take effect on January 1, 1989. The agreement will:

o Eliminate all tariffs on bilateral goods trade within 10 years of implementation;

o Reduce nontariff trade barriers;

o Establish principles for the conduct of bilateral trade in services;

o Establish rules for the conduct of bilateral investment;

o Resolve many outstanding bilateral trade issues;

o Enhance the energy and national security of the two countries;

o Facilitate business travel; and

o Establish a timely bilateral dispute settlement mechanism.

Economic Implications

Each year the U.S. and Canada exchange more goods and services than any two countries in the world. Bilateral trade in goods and services exceeded $150 billion in 1986.

The elimination of tariffs and most other barriers to trade between the two countries will increase economic growth, lower prices, expand employment and enhance the competitiveness of both countries in the world marketplace.

Chronology of the Negotiation

o In March 1985, President Reagan and Prime Minister Mulroney asked their trade officials to explore ways to reduce and eliminate existing barriers to trade between the U.S. and Canada.

- On September 26, 1985, Prime Minister Mulroney formally requested that the U.S. and Canada examine the potential for negotiating a comprehensive free trade agreement.
- On December 10, 1985, President Reagan notified the Congress of his intent to enter into bilateral negotiations with Canada using "fast track" procedures.
- On June 17, 1986, U.S. and Canadian negotiators on the free trade area met for the first time in Ottawa.
- On October 3, 1987, President Reagan notified Congress of his intent to enter into a free trade agreement with Canada.
- On December 9, 1987, U.S. and Canadian negotiators initialled a final text of the agreement.
- On January 2, 1988, President Reagan and Prime Minister Mulroney signed the final text of the agreement.

The Fast Track

Section 102 of the Trade Act of 1974 authorizes the President to enter into bilateral free trade agreements and to have the Congress approve them on a "fast track" basis. Section 102 authority expires at midnight on January 2, 1988.

In order for a bilateral agreement to qualify for fast track consideration, several conditions must be met:

- The negotiation must be requested by the foreign country;
- The President must notify the House Ways and Means and Senate Finance Committees of the negotiations, giving them 60 legislative days advance notice:
- The President must notify the Congress of his intent to enter into an agreement 90 days before doing so.

After entering into an agreement, the President must submit it to Congress, along with a draft implementing bill, a statement of any administrative action proposed to implement the agreement, an explanation of how the bill or statement changes or affects existing law and a statement of reasons why the agreement serves the interests of U.S. commerce and why the bill and proposed action are required and appropriate.

The implementing bill is introduced in both Houses of Congress on the day it is submitted and is referred to the committees of jurisdiction. House committees have 45 days in which the House is in session to report the bill; they are discharged automatically from further consideration after that period. The House votes within 15 days in session after the measure has been received from the House committees.

After receiving the bill from the House, the Senate committees have 15 days in which the Senate is in session to report the bill; they are discharged automatically from further consideration after that period. The Senate votes within 15 days in session after the measure has been received from the Senate committees.

Amendments to the bill are not in order. A simple majority of each House is required for approval.

# # #

BRIEF SUMMARY OF KEY FTA PROVISIONS

- **Tariffs**: Eliminates all tariffs on U.S. and Canadian goods by 1998.
- **Rule of origin**: Uses a rule of origin to prevent third country goods from receiving FTA tariff treatment.
- **Customs**: Ends customs user fees for goods and duty drawback programs by 1994 for bilateral trade and duty waivers linked to performance requirements by 1998 (except for the Auto Pact).
- **Quotas**: Eliminates import and export quotas unless allowed by the GATT or grandfathered by the FTA.
- **National treatment**: Reaffirms GATT principle preventing discrimination against imported goods.
- **Standards**: Prohibits use of product standards as a trade barrier and provides for national treatment of testing labs and certification bodies.
- **Agriculture**: Eliminates all bilateral tariffs and export subsidies and limits or eliminates quantitative restrictions on some products, including meat. Eliminates Canadian import licenses for wheat, oats and barley when U.S. crop price supports are equal or less than those in Canada.
- **Wine and Distilled Spirits**: Removes most discriminatory practices against wine or spirits imported from the other country.
- **Energy**: Prohibits most import and export restrictions on energy goods, including minimum export prices. Requires any export quotas used to enforce short supply or conservation measures to share resources proportionately. Provides for Alaskan oil exports of up to 50,000 barrels per day to Canada.
- **Autos**: Replaces Canadian content rule for duty-free Auto Pact imports into the U.S. with tougher FTA content rule. (Most auto trade already is duty-free under the U.S.-Canada Auto Pact.) Does not change rules for Auto Pact-qualified companies importing duty-free into Canada, but does not allow new companies to qualify. Permits U.S. auto and parts exports that meet the FTA rule to enter Canada at FTA tariff rates, which phase out over 10 years. Ends all Canadian duty remission programs for autos by 1998.
- **Emergency action**: Allows temporary import restrictions to protect domestic industries harmed by imports from the other country in limited circumstances.
- **Government procurement**: Expands the size of government procurement markets that will be open to suppliers from the other country.
- **Services**: Commits governments not to discriminate against covered service providers of the other country when making future laws or regulations. (Exempts transportation services.)
- **Temporary Visas**: Facilitates travel for business visitors, investors, traders, professionals and executives transferred intra-company.
- **Investment**: Provides national treatment for establishment, acquisition, sale and conduct and operation of businesses. (Exempts transportation.) Commits Canada to end review of

indirect acquisitions and to raise to C$150 million (in constant 1992 Canadian dollars) the threshold for review of direct acquisitions. Bans imposition of most investment performance requirements.

- Financial Services: Exempts U.S. bank subsidiaries in Canada from Canada's 16 percent ceiling on assets of foreign banks. Ends Canada's foreign ownership restriction on U.S. purchases of shares in federally regulated insurance and trust companies. Reviews U.S. firms' applications for entry into Canadian financial markets on the same basis as Canadian firms' applications. Permits banks in the U.S. to underwrite and deal in debt securities fully backed by the Government of Canada or political subdivisions. Guarantees continuation of multi-state branches of Canadian banks.

- General dispute settlement (except for financial services and countervailing duty and antidumping duty cases): Establishes a binational commission to resolve disagreements.

- CVD/AD dispute settlement (for countervailing and antidumping duties): Allows countries to continue to apply existing national laws. Replaces court review with a binational panel (when requested), which must apply national law in rendering decisions under international law.

- Softwood lumber: Preserves the 1986 agreement with Canada on provincial pricing practices.

- Culture: Exempts cultural industries from the FTA, but authorizes measures of equivalent commercial effect in response to actions otherwise inconsistent with the FTA.

SUMMARY OF THE AGREEMENT

Preamble

The Preamble to the Agreement describes the two countries' desire to improve their economies, to achieve full employment and increase living standards and to strengthen the competitiveness of both countries' firms in the global marketplace.

PART ONE: OBJECTIVES AND SCOPE

The first part includes chapters setting out the objectives and scope of the Agreement and defining key terms.

Chapter One: Objectives and Scope

The Agreement establishes a free trade area (FTA) consistent with the General Agreement on Tariffs and Trade (GATT), the multilateral agreement governing trade relations between 94 countries.

The objectives of the Agreement are to:

- eliminate barriers to trade in goods and services between the two countries;
- facilitate conditions of fair competition;
- significantly liberalize conditions for investment;
- establish effective procedures to administer the Agreement and resolve disputes;
- and lay the foundation for further bilateral and multilateral cooperation.

The federal governments agree to ensure that state, provincial and local governments take necessary actions in areas under their jurisdiction to implement the Agreement. They establish that the Agreement generally will take precedence over pre-existing agreements, except where specified, and they agree to treat each other's goods, services and investment as they treat their own to the extent provided in the Agreement.

Chapter Two: General Definitions

Words critical to the application of the Agreement are defined.

PART TWO: TRADE IN GOODS

Chapters three through twelve deal with trade in goods, building on the GATT and other agreements. Chapters three through six, eleven and twelve apply to all trade in goods. Chapters seven through ten apply to individual sectors.

Chapter Three: Rules of Origin for Goods

The Agreement will eliminate all tariffs between the U.S. and Canada, but each country will maintain its own tariffs on imports from other countries. Because of the disparities between U.S. and Canadian tariff levels, it is necessary to prevent imports from third countries from being shipped through one FTA partner into the other in order to escape the higher tariff.

Rules of origin are used to define those goods entitled to duty free treatment. Goods wholly produced in either the U.S. or Canada will qualify for FTA treatment. Goods containing imported inputs will qualify if they are processed enough to result in one of several specified changes in tariff classification under the internationally agreed Harmonized System; that is, they must be changed in ways that are physically and commercially significant. In some cases, there is the explicit requirement that at least half of the cost of manufacturing the goods must be attributable to Canadian and/or American materials and/or direct costs of processing. Finally, there is a safeguard provision denying FTA treatment to any goods altered merely to circumvent the rules of origin.

Goods that are further processed in a third country before being shipped to their final destination will not qualify for FTA treatment. For example, goods produced by either U.S.- or Canadian-owned maquiladora operations in Mexico will not qualify.

Apparel made from fabric woven in the U.S. or Canada will be duty-free but apparel made from imported fabric will qualify for FTA treatment only up to the following levels:

	Non-Woolen Apparel	Woolen Apparel
	(in million-square-yard	equivalent)
Imports from Canada	50	6
Imports from the U.S.	10.5	1.1

Non-woolen fabric and made-up textile articles, woven or knitted in Canada from yarn produced or obtained in a third country, will qualify for FTA treatment for three years, but only up to an annual level of 30 million square yards.

The two governments will consult regularly to ensure that the rules of origin are operating effectively and to consider changes to the rules where experience suggests changes may be helpful.

Chapter Four: Border Measures

The central element of a free trade area is the elimination of substantially all tariff and nontariff trade barriers.

Tariffs

All bilateral tariffs will be eliminated in stages by January 1, 1998. The removal of tariffs will increase two-way trade and lower costs to consumers in both countries, thereby creating a single U.S.-Canadian market of 265 million people. Approximately 75 percent of bilateral merchandise trade, currently in excess of $120 billion, already moves free of duty. The remaining 25 percent, however, is subject to tariffs. Canadian tariffs average about 9-10 percent, or about twice the U.S. average of approximately 4-5 percent.

The results of the tariff negotiation are expressed in terms of the new Harmonized System (HS) of tariff nomenclature. (If either country fails to adopt the HS, duties will be eliminated by converting the schedule of reductions back to current tariff schedules.) All dutiable products in the HS were assigned to one of the following three staging categories: (1) immediate elimination; (2) five equal, annual cuts (20 percent per year), and (3) ten equal, annual cuts (10 percent per year). In almost all instances, staging on a particular product is the same in both countries. The stages for various commodities were selected in recognition of the fact that industries in both countries will require varying periods of adjustment to changing competitive conditions.

Import-sensitive industries on both sides of the border were generally accorded 10-year staging, which would result in the duty being eliminated by January 1, 1998. These include plastics, rubber, most wood products, lead, zinc, base metal articles, footwear, textiles and apparel, steel, many alcoholic beverages, consumer appliances, precision instruments, watches and most agricultural and fish products.

Immediate duty elimination is scheduled for such products as automatic data processing and related equipment, certain telecommunications equipment, motorcycles, whiskey and rum, some processed fish, raw hides, leather and furs.

All other duties will be phased out by January 1, 1993. Included within this category are paper, furniture, printed matter, chemicals, after-market automotive parts, precious jewelry, most machines, some musical instruments, and petroleum.

The Agreement provides that tariffs can be reduced faster whenever the two governments agree.

Customs Programs and Procedures

The Agreement eliminates duty drawback for bilateral trade, duty waivers linked to performance requirements (except as provided in the chapter on automotive trade), and the U.S. customs user fee for Canadian merchandise. It authorizes importers and exporters to certify that goods meet the rules set out in the rules of origin chapter and are therefore eligible for FTA tariff treatment. These measures are intended to prevent imports from third countries from benefiting from the FTA.

Duty Drawback: Both countries will end duty drawback on exports to the other as of January 1, 1994, with limited exceptions. Most countries, including the United States and Canada, have duty drawback programs, which provide for the return of duties on imports when they or substituted domestic goods are incorporated in goods subsequently exported. Because of the elimination of bilateral tariffs, continuation of duty drawback between the two parties would allow duty free-entry of third-country imports through the other FTA party and would distort trade and investment decisions.

As an exception to the ban on duty drawback for bilateral trade, the following goods will continue to benefit from the program:

- o goods remaining in the same condition on exportation as on importation (but they would not benefit from FTA tariff treatment),
- o dutiable goods of the United States or Canada if they are incorporated into, or directly consumed in, the

production of goods subsequently exported back to the FTA partner, and

- goods where both parties agree to maintain duty drawback (this category consists of (1) imported citrus products and (2) fabric imported from a third country and made into apparel that is subject to the most-favored-nation (MFN) tariff when exported to the other party).

Also, beginning January 1, 1994, goods withdrawn from a Foreign Trade Zone (FTZ) or benefiting from a similar program will be treated the same whether destined for consumption in the U.S. or Canada. For a good made in a U.S. FTZ, duty must be paid on the value of any foreign components at either the component or the finished-good tariff rate. Maintaining the full benefits of these programs, like duty drawback programs, would have allowed imports from third countries to enter duty-free through the other FTA party and would distort trade and investment.

Duty Waiver: Neither party will introduce new duty waivers or expand existing ones linked to performance requirements after the later of June 30, 1988 or the date of Congressional approval of the Agreement. Existing programs will be eliminated by January 1, 1998. This provision ends the trade-distorting practice of requiring a firm to buy local inputs or to export output in exchange for a tariff exemption.

The 1998 termination date excludes certain waivers affecting automotive trade, as specified in the section on automotive trade. The countries reserve existing rights under other agreements with respect to the Auto Pact or comparable arrangements. This provision maintains the U.S. right to challenge Canadian performance requirements under GATT rules.

If a party can show that a duty waiver to a specific firm granted on a commercial good hurts its commercial interests, then the party granting this waiver must either make it generally available to any importer or end the program. This provision prevents discrimination among firms.

Customs Fees: Starting on January 1, 1990, the U.S. must cut by 20 percent each year the customs user fee on goods qualifying under the rule of origin of the FTA. The fee on Canadian goods will be eliminated as of January 1, 1994. Neither country may introduce new customs user fee programs to pay for the costs of Customs administration on goods from the other country.

Customs Procedures: The Agreement authorizes the governments to require importers to submit a written declaration of origin based on a written declaration of origin provided by the exporter. It requires each country to make it unlawful for the exporter to provide a false certification. False declarations by either the importer or the exporter could be prosecuted by the government of the country in which the offending business is located. This provision will help avoid fraudulent claims of FTA origin to avoid tariffs.

The Agreement also provides for cooperation on enforcement, consultations on uniform application of the rule of origin, review and appeal procedures for decisions on the rule of origin and consultations on major changes affecting customs administration.

Import and Export Restrictions

Import and export quotas and other restrictions can distort trade flows. The elimination of such barriers is essential to an effective free trade area. Unless specifically grandfathered by the Agreement or allowed by the GATT, existing quantitative restrictions will be eliminated immediately or according to a timetable. Some specified restrictions that have been exempt from GATT obligations will be eliminated for trade between the U.S. and Canada.

In all cases where quantitative restrictions are prohibited under the Agreement, use of minimum export prices and minimum import prices (except those used to enforce countervailing duty and antidumping orders) also are prohibited.

Where either country prohibits imports from a third country, it may similarly prohibit the pass-through of imports from that country through the FTA partner. This provision preserves the right to enforce embargoes for foreign policy or other reasons (e.g., embargoes against Cuba or Iran).

Export taxes will not be permitted under the Agreement unless the tax is also levied on goods destined for domestic consumption. In addition, where GATT-permitted export restrictions are applied (such as in the event of a short-supply emergency), the restriction must not reduce the proportion of the good that was exported to the FTA partner relative to the total supply of the good prior to the restriction.

Chapter Five: National Treatment

The Agreement incorporates the GATT requirement that, once imported into either country from the other, goods will not be the object of discrimination. This ensures that the elimination of border measures will not simply be replaced by internal measures favoring domestic goods over imports. This rules out higher sales or excise taxes or regulatory requirements on imports. Discrimination against goods from the other country by provinces or states is prohibited even if a province or a state discriminates against goods from other provinces or states.

Chapter Six: Technical Barriers

There are legitimate public policy objectives for which technical regulations and standards are maintained (e.g., to protect human, animal or plant life or health; to preserve the environment; and to protect essential security interests). However, standards measures may work to inhibit trade.

The Agreement builds on current obligations under the GATT Standards Code not to use standards to hinder trade unnecessarily. Certification and testing facilities will receive nondiscriminatory treatment in both countries. We also agree to work to harmonize our standards where appropriate so that similar products do not have to be made or work in different ways in order to be sold in the other country. Provisions of this chapter do not apply to agricultural goods, which are covered in the chapter on agriculture.

These provisions do not mean that the U.S. will have to adopt the metric system or Canadian standards, or that standards cannot be adopted for legitimate regulatory reasons. The basic rule remains that standards must not create unnecessary obstacles to trade. Obstacles to trade are not created where the demonstrable purpose of standards-related measures is to protect health and safety, environmental, national security and consumer interests. However, such measures must not operate to exclude goods of the other country if they meet these objectives.

Both countries will assure that testing facilities and certification bodies are treated in a nondiscriminatory manner. This paves the way for the recognition by Canadian authorities of U.S. facilities and bodies. This does not require that all testing labs receive accreditation, especially if an individual lab is not qualified in the view of the accrediting authority, but forbids the discrimination against labs on the basis of nationality.

Canada and the United States agree to harmonize (make compatible) federal standards-related measures to the greatest extent possible, and to promote harmonization of private standards. The Agreement does not require that standards and technical regulations be harmonized but provides for it where appropriate. State and private standards-setting bodies are not obligated under any of these provisions.

Both countries will provide for enhanced transparency in the regulatory process. To this end, we will expand our information exchange and guarantee a 60-day comment period on proposed standards-related regulations at all levels. This is important to manufacturers because they need to know about regulatory changes which may affect their products so that they can prepare for the changes, and have some say in them. Similar provisions will apply for state, provincial, and private standards activities at a "best efforts" level.

Processes and production methods are included as standards-related measures subject to the provisions of the Agreement. This provision makes clear that specifying how a product is made is just as much a standards-related measure, and subject to the rules of this section, as specifying how the product should perform.

Both countries will recognize each other's systems for accrediting testing labs. Currently, this is a small program operated by the National Bureau of Standards in the U.S. and the Canadian Standards Association in Canada to accredit testing labs. Labs accredited under one program will automatically receive recognition in the other country.

Chapter Seven: Agriculture

The U.S. and Canada agree that the achievement of our major trade objectives for our agricultural sectors will require multilateral solutions and accordingly will work together in the Uruguay Round and other fora to liberalize agricultural trade. Nevertheless, the FTA includes provisions providing U.S. and Canadian agricultural producers increased opportunities to market their products in the future with no tariff barriers and with fewer nontariff barriers.

Various barriers to trade in agriculture have arisen in recent years in an attempt to stabilize the agricultural economy. Quotas, import licenses, technical requirements and subsidies have all had a negative effect on trade in agricultural products. The Agreement provides for a number of liberalizing measures in an era of increasing protectionism.

The Agreement provides for semi-annual consultations between the U.S. and Canada on agricultural issues. It also provides that each country shall retain its rights and obligations under the GATT except as otherwise provided.

Tariffs

All agricultural tariffs between the U.S. and Canada will be eliminated within 10 years, thereby facilitating trade and leading to higher efficiency. The agricultural sectors likely to be most affected by the tariff elimination will be fresh fruits and vegetables because some of the highest agricultural tariffs are applied on those products.

Both countries will reserve the right, for 20 years, to apply a temporary duty on designated fresh fruits and vegetables to protect their domestic producers from import surges from the other country. This provision will facilitate a smooth transition to a tariff-free border for both countries, providing a mechanism to prevent unnecessary hardship to fruit and vegetable producers. The temporary duty can only be triggered if (1) the import price falls below 90 percent of the previous five-year average monthly import price for five consecutive days, and (2) the planted acreage in the importing country is not higher than the previous five-year average for the particular fruit or vegetable. The total duty applied under this provision cannot cause the total duty on these products to exceed the lesser of the most-favored-nation (MFN) duty that was in effect for the corresponding season prior to the Agreement or the then current MFN duty. Moreover, it can be applied only once per year per product for no longer than 180 days. The temporary duty will be removed immediately once the import price exceeds 90 percent of the five-year average for five consecutive days.

Subsidies

The U.S. and Canada have agreed to work together to achieve, on a global basis, the elimination of all subsidies which distort agricultural trade through multilateral negotiations such as the Uruguay Round. This is consistent with the U.S. proposal for agriculture in the Uruguay Round. The FTA partners have agreed not to use export subsidies on agricultural goods exported directly or indirectly to the other country. Each country has also agreed not to sell agricultural goods in the other country at a price below the acquisition price plus handling, storage and other costs. This will prevent the use of practices such as dual pricing. The Agreement will not limit other forms of production subsidies in either country.

Canada has agreed to exclude from the transport rates established under the Western Grain Transportation Act (WGTA) agricultural goods originating in Canada and shipped via West Coast ports for consumption in the U.S. These subsidies were instituted by Canada in 1984 as an expansion of the Crow's Nest Act. It is anticipated that this will primarily affect shipments of millfeed and rapeseed meal into the U.S. Pacific Northwest. The Agreement will not affect WGTA subsidies on shipments through Eastern ports (Thunder Bay), which are not conditioned on export and have been in place since 1897.

These provisions do not prevent imposition of antidumping or countervailing duties.

Access Issues

Grains: Canada has agreed to eliminate import licenses for U.S. wheat, barley, oats and their products when U.S. government support for the particular crop is equal to or less than that of Canada. Each country will calculate its own support level in accordance with a methodology set forth in the Agreement. There is a mechanism to resolve any disagreement over the other country's calculation. When it occurs, the elimination of licenses will provide greater access for the U.S. to the Canadian market for both grains and processed products containing grains.

The Agreement will not affect the ability of either country to legislate changes in domestic support programs for agricultural products. Both countries have also reserved the right to impose or reimpose import restrictions on particular grains if imports increase significantly as a result of a substantial change in either country's support programs for that grain.

Meat: In evidence of the spirit of free trade, the two countries will exempt each other from import quotas applied under their respective meat import laws, unless those imports are frustrating import restrictions on meat imports from other countries. This is a further step ensuring access to each other's markets. This provision will not allow the transshipment or substitution of meat from third countries to circumvent the respective meat import laws. Direct third country access to the U.S. for meat will remain unchanged by the Agreement.

Poultry and Eggs: Canada has agreed to increase the base level for its import quotas for eggs, chicken, turkey and products thereof to a level reflecting total shipments over the last five years. This provision will increase the amount of guaranteed access into Canada. As a result of the tariff reductions, U.S. exporters should have a competitive advantage over other potential supplying countries for the increased quotas.

Sugar: The U.S. has agreed not to impose import restrictions on products from Canada containing ten percent or less sugar for purposes of restricting the sugar content of those products. This provision will not limit the ability of the U.S. to restrict the entry of processed products with higher than ten percent sugar content for purposes of protecting the sugar program.

Technical Regulations

The U.S. and Canada have agreed to work together to harmonize, to the greatest extent possible, technical regulations affecting agricultural, food, beverage and certain related goods. These provisions will facilitate trade for both countries by eliminating, where possible, technical requirements that can amount to non-tariff trade barriers. Specific schedules address the following areas: feeds; fertilizers; seeds; animal health; veterinary drugs; plant health; pesticides; food, beverage and color additives; packaging and labeling; meat, poultry and egg inspection; dairy, fruit and vegetable inspection, and unavoidable contaminants in food and beverages.

Chapter Eight: Wine and Distilled Spirits

Export opportunities for U.S. producers of alcoholic beverages have been limited by measures in Canada that discriminate against the internal sale and distribution of imported products in Canada. The Agreement does not prohibit the regulation of alcoholic beverages in either country, but does eliminate the most significant existing discriminatory practices in Canada and prohibit discrimination against the products of the other country for all new regulations.

Listing measures (limits on brands or types of products that may be sold) must no longer discriminate against wine or distilled spirits of the other country. The lone exception to this requirement is that the province of British Columbia may continue to grant automatic listing to certain estate wineries, provided that listing measures do not otherwise discriminate. Criteria for decisions on listings must be based on normal commercial considerations and listing measures cannot be used to create disguised trade restrictions. Further, listing measures must include procedures for a fair a expeditious appeal when an application for a listing is denied.

The Agreement requires the elimination of discriminatory pricing measures for wine and distilled spirits, including charging a higher markup for U.S. products than locally produced products. Any existing markups must be eliminated when the Agreement is implemented for distilled spirits and must be phased out by January 1, 1995 for wine (with half of the differential to be eliminated by January 1, 1990). Differential pricing measures may only be maintained if the differential between products of the two countries does not exceed the additional cost of service for imported products relative to domestic products. Any such cost of service differential will be subject to audit to ensure it reflects actual higher costs rather than arbitrary protection for local products.

The Agreement prohibits discrimination between Canadian and U.S. wine and distilled spirits in terms of the distribution system for these products. However, on-premise sales by a winery or distillery solely for items produced by them may continue. Private wine store outlets existing on October 4, 1987 in Ontario and British Columbia may continue to discriminate in favor of wine produced in those provinces, but distribution measures in those provinces must otherwise provide nondiscriminatory treatment. Quebec is also allowed to continue to require that wine sold in grocery stores must be bottled in Quebec, as long as alternative outlets for U.S.-bottled wine are provided.

Canada has also agreed to eliminate any measures which require that distilled spirits imported in bulk must be blended with Canadian spirits in order to be sold in Canada.

Canada will recognize Bourbon Whiskey as a distinct product manufactured in the United States and the United States will recognize Canadian Whiskey as a distinctive product of Canada.

Tariffs

Tariffs on whiskey and rum will be eliminated when the Agreement takes effect. Tariffs on other distilled spirits, wine and beer will be phased out in ten equal annual amounts so that duty free status will be obtained on January 1, 1998.

Chapter Nine: Energy

Energy is the single most important input for a developed economy. Without it, there could be no basic industries such as chemicals, steel and other primary metals, autos, aviation, and pulp and paper. All of these industries require energy as a key input and some also manufacture products whose use depends on the availability of energy. Thus, assuring secure supplies of energy at stable and reasonable prices is an essential priority of U.S. economic and trade policy.

The U.S. is the world's largest energy consumer. Although we are also one of the leading producers of energy, the requirements of our economy for various forms of energy are so great that we must import significant amounts of energy to meet these needs. Canada is by far our largest energy supplier. We import more crude oil and petroleum products from Canada than from Saudi Arabia, Venezuela or Mexico. Canada supplies almost all of our natural gas and electricity imports, and more than two-thirds of our uranium imports. In addition, Canada is our largest coal export market. The U.S. and Canada share the world's largest bilateral energy trade relationship, with two-way trade of $10 billion per year or more.

Regrettably, the history of this trade has been marked by a considerable degree of government intervention on both sides, in the form of export restrictions, minimum export price requirements, import fees and quotas, and various other trade restrictions. There have also been domestic programs in each country which have distorted trade both in energy itself and in energy-intensive products such as petrochemicals. While these past actions have often been in response to short-term concerns, they have generally worked to the longer-term disadvantage of both countries. At times, artificially low prices have stimulated excess demand while suppressing supply and thus causing shortages. At other times, artificially high prices have stifled economic activity throughout the economy, especially in energy-intensive industries. Overall, the uncertainty about future government energy trade policies and actions has inhibited investment in energy production and energy consuming industries in both countries.

The Agreement builds on the lessons learned from the past by renouncing excessive government interference in our future energy trade and provides a framework for rational economic development of that trade. Because it will encourage the most efficient system for production, distribution and use of energy between the two countries, it will enhance the energy security of both countries. It should also result in lower overall energy costs over the longer term, which will contribute significantly to the international competitiveness of basic industries in each country.

The energy goods covered by the Agreement include petroleum, natural gas, coal, electricity, uranium and other nuclear fuels.

The Agreement reaffirms the rights and obligations of both the United States and Canada with respect to the GATT prohibitions on import and export restrictions. Moreover, it makes explicit that both countries interpret the GATT to prohibit minimum export price requirements. In addition, the Agreement extends the GATT discipline to cover a prohibition on export taxes.

In an annex, the Agreement lists three specific changes to conform existing laws to these commitments: (1) The U.S. will exempt Canada from any potential restrictions on enrichment of foreign uranium which might be imposed under Section 161v of the Atomic Energy Act; (2) Canada will exempt the U.S. from its export restrictions on unprocessed uranium; and (3) the U.S. will allow Canada access to a maximum of 50 thousand barrels per day of Alaskan oil currently restricted from export under Section 7(d) of the Export Administration Act, subject to the condition that this oil will be transported to Canada from a suitable location in the Lower 48 States.

The Agreement affirms that, as provided by the GATT, either country may restrict exports where necessary to respond to supply shortages, to maintain a domestic price stabilization program or to prevent exhaustion of a finite energy resource. However, it may impose a restriction only if the restriction (1) does not reduce the proportion of total supply historically available to the other country; (2) does not disrupt the normal channels of supply or mix of energy products; and (3) does not impose a higher price on exports than for comparable domestic sales. What this means is that neither country will treat the buyers or sellers of energy of the other country as "second-class" customers or suppliers. Canada gains assured market access for its energy exports to the U.S., and the U.S. gains assured access to Canadian supplies for its imported energy requirements.

The Agreement provides for consultation in the event either country believes the energy regulatory actions of the other country would directly discriminate against its energy goods or businesses.

An annex to the Agreement lists regulatory changes to be made to conform to the Agreement. Canada will eliminate its electricity export price test that requires the export price to be not significantly less than the least-cost alternative available to the importer. Other Canadian export tests (price tests and "surplus" tests) must be administered in a manner consistent with the principles of the Agreement.

The U.S. will eliminate any discriminatory treatment of British Columbia Hydro vis-a-vis comparably situated U.S. utilities in terms of access to the Bonneville Power Administration Intertie into the California electricity market. In addition, it is expected that long-term arrangements will be negotiated to assure the development of electricity trade in a mutually beneficial manner consistent with the objectives and principles of the Agreement.

The Agreement recognizes the importance of government incentives for oil and gas resource development to the energy supply security of both countries and, therefore, allows such incentives to be maintained or created. This provision does not prevent the imposition of antidumping or countervailing duties.

The Agreement provides for only quite narrow exceptions to the prohibition on trade restrictions in situations involving national security; these are limited to situations of militarily related national security. The Agreement declares that there is no inconsistency between this Agreement and the obligations of either country under the International Energy Program of the International Energy Agency.

Chapter Ten: Trade in Automotive Goods

Automotive trade accounted for over one-third, or $46 billion, of the total bilateral trade between the U.S. and Canada in 1986. Under the U.S.-Canada Automotive Products Trade Agreement (Auto Pact) of 1965, 95 percent of bilateral automotive trade already moves duty-free. As a result of the FTA, all automotive trade will be duty-free, as long as it meets the rule of origin.

The U.S. and Canada have agreed to the removal of tariff and nontariff barriers and new origin rules designed to assure that the benefits of the FTA accrue to North American auto and auto parts producers. By removing trade and investment distorting practices, the FTA will encourage greater efficiency in motor vehicle production and will provide greater assurance that economic factors determine trade and investment choices between the U.S. and Canada.

Tariffs and Rule of Origin

All tariffs on U.S. and Canadian motor vehicles and parts will be eliminated by January 1, 1998. Most will be phased out over 10 years, but tariffs on aftermarket parts will be eliminated in five years.

The FTA rule of origin which is described in the chapter on rules of origin will apply to all U.S. imports of Canadian automotive products, but only to Canadian imports of U.S. automotive products not entering Canada under the Auto Pact. The FTA rule is based on change in Harmonized System tariff classification and includes a 50 percent U.S.-Canadian direct cost of manufacturing test for vehicles and specified assembled parts.

Here is how the new FTA rules and the existing Auto Pact will work for imports of autos and parts into the U.S. from Canada:

> The FTA rule of origin will replace the rule currently used by the U.S. to implement the Auto Pact. Upon implementation of the FTA, those motor vehicles and original equipment parts currently eligible for duty-free entry under the Auto Pact will be able to enter the U.S. duty-free only if they meet the new FTA rule of origin. Other auto parts that meet the FTA rule of origin will pay the FTA tariff until it is fully eliminated. Motor vehicles and parts that do not meet the FTA rule of origin will pay the full current most-favored-nation (MFN) duty, not the FTA duty.
>
> The new rule of origin is tougher in that it requires that substantial manufacturing costs (materials and direct processing costs) be incurred in the U.S. and/or Canada, while the current test only assures that substantial costs (which can include advertising and overhead) or profits are incurred in the U.S. and/or Canada. This change will help both U.S. and Canadian auto parts manufacturers.

Here is how the new FTA rules and the existing Auto Pact will work for imports of autos and parts into Canada from the U.S.:

> Canada's criteria for duty-free access into Canada under the Auto Pact will not change. Qualified producers (those that meet Canada's performance requirements) will continue to be able to import motor vehicles and parts into Canada duty-free from anywhere in the world. However, it has been agreed in the FTA that no new firms may qualify for Auto Pact or Pact-like benefits in Canada, except for the General Motors-Suzuki (CAMI) joint venture, if it qualifies by the 1989 model year.
>
> For companies not meeting Canada's Auto Pact performance requirements, the FTA tariff will apply (until it is fully eliminated) to products imported from the U.S. that meet the FTA rule of origin. Motor vehicles and parts that do not meet the FTA rule of origin will pay the full current most-favored-nation (MFN) duty, not the FTA duty.

Duty Remission

Canada's export-based duty remission program will be eliminated January 1, 1989 on exports to the U.S. and terminated in all cases by January 1, 1998. The export-based duty remission program allows firms in Canada to reduce duties on motor vehicle and part imports in proportion to the Canadian value-added in their exports of automotive parts.

Canada's production-based duty remissions will end by January 1, 1996 or earlier as contracts expire. Production-based duty remissions allow firms that are not members of the Auto Pact in Canada to avoid duties on automotive imports into Canada as long as they meet Canadian local content requirements.

There will be no new recipients of any Canadian automotive duty remission benefits, and current benefits will not be enhanced. U.S. and Canadian auto parts manufacturers will benefit from the elimination of these measures, which distort trade and investment.

Other Provisions

Canada will phase out its embargo on the importation of used vehicles over five years.

A Select Panel will be established to assess the state of the North American industry and to propose public policy measures and private initiatives to improve its competitiveness in domestic and foreign markets.

Chapter Eleven: Emergency Action

One of the basic tenets of the GATT trading system is that countries should be allowed to take temporary emergency actions restricting imports in order to remedy serious injury caused by increased imports. The drafters of the GATT recognized that a country would be more willing to enter into contractual obligations to reduce its trade barriers if it were able to reimpose the duties when and if imports of a particular product increased to such an extent as to cause injury to one of its industries producing a competing product. Both the U.S. and Canada have established "safeguard" procedures to provide emergency relief to domestic industries injured by imports.

The Agreement provides a two-track system aimed at preserving the existing rights of workers and firms in both countries to gain relief from import-related injury, while at the same time assuring the U.S. and Canadian business communities that the trade expansion created by the FTA will not be suddenly and arbitrarily cut back. Although the U.S. and Canada have not used such actions against each other very often, the possibility of taking actions reduces certainty of market access.

In the United States, domestic producers and workers will have access to relief under special revised provisions of Section 201 of the Trade Act of 1974.

Under the *bilateral track*, if imports resulting from FTA duty reductions cause serious injury, the importing country may reinstate the pre-Agreement tariff or current MFN duty (whichever is lower), or suspend duty reductions. This can be done only once per product during the ten-year transition period for no longer than three years. After the transition period, such actions can only be taken by mutual agreement.

Under the *global track*, the FTA partners retain their GATT rights except that the importing country must exclude the other from an action involving other countries unless that country's imports are substantial and are found to be contributing importantly to the injury from imports. For purposes of this track, imports in the range of five percent to ten percent or less of total imports would normally not be considered substantial. "Contributing importantly" means an important cause, but not necessarily the most important cause.

If the exporting country is initially excluded from an import relief action, the importing country has the right to subsequently bring that country's trade under the import restraint action in the event of a surge in imports from that country. In no event may the exporting country's exports be cut back below the level they reached during a reasonable recent base period.

The FTA partner taking either a bilateral or global action must provide compensation aimed at expanding trade in another product or the exporting FTA partner may take a substantially equivalent retaliatory action.

Disputes arising after an action is taken are subject to binding arbitration under the dispute settlement provisions of the FTA.

Chapter Twelve: Exceptions for Trade in Goods

The Agreement incorporates the provisions of the GATT allowing for exceptions from GATT rules for limited reasons, such as to protect public health or morals or national treasures.

It also specifies certain miscellaneous exceptions from the FTA, including both countries' export controls on logs and existing East Coast Canadian export restrictions on unprocessed fish. Both countries' practices on the internal sale and distribution of beer are also exempted, but amendments to existing practices cannot deviate more from the obligations of the Agreement, and new measures must conform with the FTA.

GATT rights with respect to measures exempted from the FTA are expressly preserved.

PART THREE: GOVERNMENT PROCUREMENT

The general provisions regarding goods trade in Part Two do not apply to purchases of goods by governments.

Chapter Thirteen: Government Procurement

The Agreement expands the size of the government procurement markets which will be open to free and fair competition between U.S. and Canadian suppliers. It also establishes a solid framework for further elimination of "buy national" restrictions that presently inhibit sales by U.S. exporters to Canada.

The procedures used in the Agreement for government purchases build upon the open and competitive principles and procedures of the GATT Government Procurement Code. It improves Procurement Code procedures by establishing a common rule of origin, requiring an effective bid challenge system for all potential suppliers and improving transparency of bid selection, particularly for procurements which are single tendered. The U.S. currently provides for effective bid challenge procedures but Canada does not.

The U.S. and Canadian governments apply various buy national preferences in favor of suppliers of domestic goods. These preferences inhibit -- and in some cases prevent -- competition from foreign products. Under the Agreement, suppliers of goods which are manufactured in the U.S. and Canada and which contain at least 50 percent U.S. or Canadian content will be treated on an equal basis to suppliers of domestic goods for covered procurements.

"Buy American" and "Buy Canadian" restrictions are eliminated on the procurement of goods by U.S. and Canadian entities covered by the GATT Government Procurement Code between the Code threshold (for 1987, $171,000) and an FTA threshold of $25,000, and are subject to the same exclusions and exceptions as those covered by the Code.

Viewed in conjunction with the Procurement Code, the FTA will allow U.S. exporters to compete on a nondiscriminatory basis for all Code-covered procurements over $25,000.

The value of procurement opportunities covered by this chapter is estimated at approximately $3 billion of U.S. procurement and $500 million of Canadian procurement. Previously a majority of Canadian purchases were below the Code threshold, versus a small minority for U.S. entities. Therefore, Canadian entities will open a much higher percentage of procurements under the FTA than will U.S. entities. As a result of the new opportunities offered by Canadian entities under this chapter, procurement opportunities in Canada for U.S. exporters are increased by more than 100 percent.

Principles are established for bid challenge procedures. These include a requirement that a reviewing authority with no substantial interest in the outcome of the procurement be responsible for deciding bid challenges. Suppliers may protest government procedures on their own initiative and receive timely settlement of complaints.

Each government must provide transparency in its procurement process. Public notice must be provided of all the criteria it intends to use in evaluating a bid (including offsets) and the award must be based on those criteria.

Within one year after the conclusion of the current multilateral negotiations on the GATT Procurement Code, there will be an opportunity to improve and expand coverage of this chapter by further negotiations with Canada.

PART FOUR: SERVICES, INVESTMENT AND TEMPORARY ENTRY

GATT rules cover trade in goods only. Services and investment are not covered. The FTA goes beyond traditional GATT areas to establish rules in these areas that break new ground and set an important precedent for the Uruguay Round of multilateral trade negotiations, in which GATT countries are considering whether to extend GATT disciplines to these new areas.

Chapter Fourteen: Services

The Agreement breaks new ground by providing rules governing trade and investment in services industries. Both the U.S. and Canada have relatively open markets for services. The Agreement will ensure continued openness by providing that future laws and regulations will not discriminate against services providers of the other country.

A wide range of services industry sectors are covered by the agreement, including: construction, tourism, insurance, telecommunications-network-based enhanced services and computer services, some professional services, services relating to mining and agriculture, wholesale and retail trade, management services and other business services. Transportation services are not covered.

Future U.S. and Canadian government measures such as laws, regulations or licensing requirements affecting services trade and investment must not have the purpose or effect of discriminating between the services providers of either country. The right of establishment, the right to sell across the border, and greater transparency in regulations are also provided. The Agreement does not affect subsidies for or government procurement of services.

There are annexes which clarify the application of the services agreement to architecture, tourism, and telecommunications-network-based enhanced services and computer services.

In architecture, both sides will review the work of professional organizations to develop mutually acceptable standards.

In telecommunications-network-based enhanced services and computer services, the Agreement ensures the future development of an open and competitive market including access to and use of the basic telecommunications network.

In tourism, the Agreement ensures continued open markets for tourists and tourism service providers.

The Agreement provides the opportunity for future negotiations to increase liberalization, sectoral coverage and other obligations.

Chapter Fifteen: Temporary Entry for Business Persons

The U.S. and Canada have agreed that as a part of the special trading relationship established by the Agreement, it is desirable to facilitate temporary entry for business persons into the territory of each country on a reciprocal basis. The Agreement and immigration laws of both countries will provide transparent criteria and procedures for temporary entry of certain persons who conduct trade in goods and services as well as investment activities, while maintaining necessary provisions to ensure border security and protect indigenous labor and permanent employment. These provisions facilitate entry for citizens of each country into the territory of the other on both a short- and long-term basis depending on the type of commercial activity involved.

The two countries agree to provide temporary entry for business persons through transparent laws and regulations and to provide explanatory materials in order to enable business persons to become acquainted with such laws and regulations. These provisions will be applied in a manner that provides the desired entry without undue delay or impairment in the conduct of trade and investment under the Agreement.

The countries will exchange data on temporary entry and consult at least once a year concerning the operation of the Agreement and consider provisions that may further enhance temporary entry, including amendments and additions to coverage of persons under the Agreement.

Should a dispute arise concerning the provisions of this chapter, it may be referred to the dispute resolution provisions of the Agreement if the matter involves a pattern of practice and available administrative remedies have been exhausted.

Coverage of persons involves Business Visitors and Professionals who shall be admitted without prior approval procedures, petitions, labor certification tests, or other procedures having similar effect, as well as Intra-Company Transferees and Traders and Investors who will no longer face labor certification tests or other similar procedures.

Business Visitors

A business person engaged in one of the covered occupations and entering for the described purpose shall be granted entry under Schedule 1 of the Agreement. This schedule defines the persons involved in a number of business areas and the activities undertaken. The approach provides transparency and specificity to a number of areas of business activity that have in the past been unclear or subject to conflicting interpretation.

One important provision allows persons of either country to provide after-sales service for the length of the contract or warranty period on commercial or industrial machinery and equipment or computer software that has been purchased outside its territory. This allows firms to better provide after-sales service functions that are often a necessary component in the sale of complex machinery, equipment and computer software.

Traders and Investors

A business person seeking temporary entry in order to carry on substantial trade in goods or services in a capacity that involves supervisory, executive or essential skills, or to direct the operations of an enterprise in which the person has invested, shall be granted temporary entry under new, liberalized procedures in the Agreement. The new provisions provide business persons the assurance that after they have received an initial certification, they may freely enter as often as their business needs require.

Professionals

The FTA partners will admit persons who are members of certain professions and engaged in their related business activities. Coverage includes the generally recognized professions such as engineers, architects, and certain scientific and technical specialties. The Agreement also covers newer professions such as management consultants. Revised procedures should provide improved processing of entry requests.

Intra-Company Transferees

Intra-company transferees, when engaged in managerial or executive activities or possessing specialized knowledge, will be admitted. Requirements that certain companies train replacement personnel have been removed.

Chapter Sixteen: Investment

For U.S. investment in Canada, the Agreement builds on the substantial liberalization measures already taken by the present Canadian government. It freezes those measures in place and bars most new measures which would adversely affect U.S. investment.

For its part, the U.S. will continue its open investment climate for Canadian investors in accord with the basic principles set out in the President's Investment Policy Statement of September 9, 1983.

The Basic Rules

The Agreement sets out four basic rules to govern the treatment of investors from each country:

National Treatment and Non-discrimination: Each party is to treat investors of the other party at least as favorably as its own investors (in like circumstances) with respect to the establishment of new businesses and the acquisition of existing business, and with respect to the conduct, operation and sale of business enterprises located in its territory. Neither party, thus, can require that investors sell investments by reason of their nationality, or that their own nationals must hold a minimum level of equity in investments made by investors of the other country.

Elimination of Performance Requirements: Neither party, when permitting an investment in its territory, or when regulating an investment, may impose or enforce trade-distorting measures which require an investor to export a certain amount of goods, or substitute locally produced goods for imports, or buy or give a preference to locally produced goods. (This rule also applies to third country investors when such measures could significantly affect U.S.-Canadian trade.)

Expropriation Only in Accordance with International Law Standards: Neither party may directly or indirectly expropriate the holding of an investor from the other country except in accordance with generally accepted international law standards which, inter alia, require payment of prompt, adequate and effective compensation at the fair market value of the expropriated properties.

Free Transfer: Neither party may prevent an investor from transferring profits, earnings from an investment, or sales and liquidation proceeds (with only limited exceptions relating, for example, to limitations on dividend payments set by bankruptcy laws.)

Exceptions

Certain measures are excluded, notably those involving transportation services. The provision of financial services (except certain insurance measures) are covered elsewhere in the Agreement.

In general, existing measures are grandfathered, such as the existing U.S. laws restricting foreign investment in such fields as atomic energy and communications and the Canadian laws restricting foreign investment in communications. Those measures may not be made more restrictive.

The oil and gas and uranium mining industries were subject to published policies under the Investment Canada Act prior to October 3, 1987; the application of these policies and of the thresholds of the Agreement to these industries is to be clarified by an exchange of letters.

Liberalization of Entry and Exit Restrictions

The Agreement does achieve major liberalization of Canada's Investment Canada Act, which is Canada's principal mechanism for regulating investment into Canada and, a fortiori, sales of Canadian businesses to foreign investors.

Canada's threshold for review of direct acquisitions by U.S. investors is raised to C$150 million (in constant 1992 Canadian dollars) after three years from the date of entry into force of the FTA.

Canada will no longer review indirect acquisitions after the end of that three-year period.

Canada also will apply these higher thresholds to an acquisition by a foreign investor when a U.S. investor seeks to sell its Canadian business.

Canada will offer to buy, at a fair open market price (determined by independent assessment) any business enterprise in Canada in the cultural industry which Canada requires be divested when reviewing an indirect acquisition. If, for example, a U.S. firm seeks to buy another U.S. firm with a Canadian subsidiary in a cultural industry, Canada may require the new owner to divest the cultural subsidiary to a Canadian purchaser. (The FTA exempts cultural industries generally from the Agreement, and therefore from the Chapter.)

Canada will no longer impose certain trade-distorting performance requirements under the Investment Canada Act. These are requirements to export, substitute local production for imports, source or purchase locally, or achieve specified domestic content.

PART FIVE: FINANCIAL SERVICES

Chapter Seventeen: Financial Services

This is the first U.S. bilateral agreement covering the entire financial sector. It removes essentially all existing discrimination faced by U.S. financial institutions operating in Canada, allows the flexibility to acquire Canadian financial services firms, improves access between our markets, and allows financial firms on both sides of the border to compete on a more equal basis. Canadian financial institutions will continue to enjoy the current treatment and open access they now receive in the U.S. financial market.

The Agreement covers all current and future laws, regulations, and practices relating to financial institutions in both countries. Financial institutions include commercial banks, investment banks, trust and loan companies, savings-and-loan institutions, certain activities of insurance companies, and other institutions so designated under the laws of each country. (Financial services offered by nonfinancial institutions and insurance services are covered elsewhere in the Agreement.)

The domestic assets of foreign bank subsidiaries operating in Canada (the "closely held" or Schedule B banks) are currently limited to 16 percent of all domestic assets of the Canadian banking system. Foreign bank subsidiaries also face individual capital limits and other restraints such as the sale of loans to the parent bank. Under this agreement, U.S. commercial bank subsidiaries will be exempt from the current restrictions on market share, asset growth, and capital expansion, in the same way that Canadian banks are free from these restraints. U.S. commercial banks will also be allowed to establish or acquire securities firms or federally-regulated Canadian insurance and trust companies, again in the same manner as Canadian banks.

Under the current proposals for financial market reform in Canada, foreign insurance companies have perhaps been the most disadvantaged because of the so-called "10/25" rule. This prevents a nonresident from acquiring more than 10 percent ownership of a Canadian insurance company, or trust and loan company; total nonresident ownership is limited to 25 percent. Under the Agreement, U.S. insurance firms will now receive the same rights as Canadian insurance companies to diversify in the financial sector by establishing or acquiring federally-regulated insurance companies, trust companies, Schedule B banks, or securities firms.

While Ontario, Quebec, and other provinces have liberalized their securities markets and opened them to foreign investors, the federal government implemented a policy of reciprocity which has held up the applications for entry by U.S. securities firms and banks. Under the Agreement, these applications will be reviewed on a prudential basis, just as for Canadian firms, rather than on a reciprocity basis. U.S. securities firms established in Canada will have the ability to diversify through a holding company structure into other financial activities such as banking and insurance.

Under the Agreement, the U.S. also made a number of specific commitments, although there were no national treatment barriers in the United States to eliminate. The U.S. agreed to guarantee the right of Canadian banks to retain their multi-state branches that were grandfathered under the International Banking Act of 1978. If the Glass-Steagall Act, which separates commercial and investment banking in the U.S., is amended, the U.S. will extend these benefits to Canadian financial institutions in the U.S. Such guarantees have never before been extended to any other country.

The U.S. responded to Canadian concerns regarding the treatment of their banks and securities firms which merge in Canada, but have operations in the U.S., by agreeing to allow Canadian banks (as well as U.S. and other foreign banks) in the U.S. to underwrite and deal in debt obligations fully backed by Canada or its political subdivisions. This is a new power that is consistent with the existing ability of banks to underwrite and deal in securities of the U.S. Government and its political subdivisions, yet does not undermine the basic tenets of the Glass-Steagall Act.

The new power enables Canadian firms to take advantage of liberalization in Canada, while retaining the most important securities activities in the U.S. One of the side effects of this new power will be a direct benefit to the Canadian federal government, the Agent Crown corporations, the provincial governments, and the municipal governments in Canada. Since, as a result of the agreement, their debt will be underwritten and traded by more firms in the U.S., it offers the potential for a wider, deeper market and, therefore, lower borrowing costs.

In addition to these specific commitments, both the U.S. and Canada have made general commitments. The U.S. has agreed to continue the current treatment provided to Canadian financial institutions established in the U.S. as long as Canada continues to liberalize its financial markets and to extend the benefits to U.S. financial institutions established in Canada. Canada has made an analogous commitment. The Agreement establishes a formal consultative mechanism between the U.S. Department of the Treasury and the Canadian Department of Finance to oversee this liberalization and deal with any other financial services issues.

PART SIX: INSTITUTIONAL PROVISIONS

This part establishes procedures for general dispute settlement and the special arrangements for antidumping and countervailing duties.

Chapter Eighteen: Institutional Provisions

The Agreement provides for a consultative mechanism to avoid disputes and resolve any disagreements quickly and easily, with provisions for use of binational panels of independent experts for unresolved disputes.

The Canada-United States Trade Commission is established to supervise the implementation of the Agreement and to resolve disputes on all matters except financial services, antidumping and countervailing duties. The Commission will be composed of Cabinet-level representatives of both governments and will operate by consensus.

Either government may request consultations and will attempt to avoid or resolve disputes through consultations. If consultations are unsuccessful, either government may request a meeting of the Commission. The Commission may use a mediator or draw on expert advice in seeking a bilateral settlement. If not resolved in this manner, the Commission may agree to refer the matter to binding arbitration or a panel can be established at the request of either party.

A panel will be appointed from a roster maintained by the Commission. Two panelists will be appointed by each government and a fifth, the chairman, will be jointly agreed, selected by the other four, or chosen by lot. The panel, after hearing the arguments of both sides, will report its findings and recommendations to the Commission. If either side believes the panel has erred, it may present written objections to the panel, which may reconsider and revise its final report.

After receiving the panel's final report, the Commission will agree on the resolution of the dispute, whenever possible removing the nonconforming measure rather than paying compensation. If the Commission cannot agree and a government believes its fundamental rights or benefits under the FTA are being impaired, that government may withdraw equivalent benefits from the other.

Chapter Nineteen: Binational Dispute Settlement in Antidumping and Countervailing Duty Cases:

The U.S.and Canada will continue to apply their own national antidumping (AD) and countervailing duty (CVD) laws to goods imported from the other country. In such cases, independent binational panels acting in place of national courts will expeditiously review final AD and CVD determinations to decide whether they are consistent with the AD or CVD law of the country that made the determination.

The panel procedure -- combining independent review and judicial standards with an FTA-created forum and a tight schedule -- will allow quick resolution of AD/CVD issues between the two countries without unnecessary bilateral trade friction, yet preserve the rights of injured companies to obtain relief from unfair trade practices. The panel mechanism will remain in place for up to seven years, while a bilateral working group attempts to develop new approaches to unfair pricing and government subsidies that would ensure effective discipline over unfair trade practices and minimize unfair trade disputes within the new free trade area.

Under the FTA's panel procedure, independent binational panels will review final AD and CVD determinations by the relevant administrative agencies of the U.S. and Canada. In one FTA country's AD or CVD case involving a product from the other FTA country, panels would substitute for national courts unless, in a particular case, no party preferred panel to court review. Panel decisions would be binding as a matter of international law with respect to the particular matter reviewed. This system of review would apply to final determinations made by an administrative agency after the date of entry into force of the Agreement. It will not affect either country's judicial review of AD/CVD cases concerning imports from third countries.

In the U.S., the Department of Commerce makes final dumping or subsidy determinations in AD/CVD investigations and reviews of AD/CVD orders, and the U.S. International Trade Commission makes final determinations in AD/CVD investigations as to whether a U.S. industry has been injured. These determinations in a U.S. case involving goods from Canada, and Canada's parallel determinations in a Canadian case involving goods from the U.S., will be subject to panel review. This symmetry in the panel review process will enhance the rights of U.S. producers and exporters, since judicial review of some Canadian dumping and subsidy findings is not now available.

The panels will review final AD/CVD determinations solely to determine, based on the administrative record, whether the relevant administrative agency applied its national AD/CVD law correctly. The panels will employ the same standard of review and the same general legal principles as would a domestic court. If a panel finds that the administrative agency applied the law correctly, it will affirm the determination. Otherwise, it will send the case back for a corrected determination.

Although formally only the two governments may invoke the panel review process, the governments will automatically trigger panel review at the request of any person who otherwise could have challenged the determination in court. Parties to the case or their lawyers will argue their positions before the panel, as they would before a court. Sensitive business information will be protected against unlawful disclosure in the panel review process.

Panelists will generally be selected from a roster to be developed by the two governments. Individuals on the roster will be U.S. or Canadian citizens chosen for objectivity, reliability, sound judgment, and general familiarity with international trade law. To ensure impartiality, roster members, with the exception of judges, may not be government officials. Individual panels will have five members, the U.S. and Canada each appointing two. The fifth panelist will be chosen by agreement between the two governments, among the four panelists, or by lot from the roster. Because panels will be performing a judicial-like function, a majority of the panelists including the chairman must be attorneys.

The two governments expect the panel system to work smoothly and effectively. As a safeguard against an impropriety or gross panel error that could threaten the integrity of the process, however, the FTA provides for an "extraordinary challenge procedure." In carefully defined circumstances, either government could appeal a panel's decision to a three-member committee of U.S. and Canadian judges or former judges. The committee would make a prompt decision to affirm, vacate, or remand the panel's decision.

The Agreement also establishes a procedure for advisory panel review of amendments to U.S. or Canadian AD or CVD laws enacted after the FTA enters into force. The two governments will consult about any proposed AD/CVD amendments applicable to the other country's goods. If one country changes its AD or CVD statutes, the other government may request that a panel be established to give an advisory opinion on whether the amendment is consistent with the GATT and the FTA.

If the panel views the amendment as inconsistent with the GATT or the Agreement and recommends modifications to eliminate the inconsistency, the two governments will consult to reach a solution, which could include seeking remedial legislation. If no agreement is reached or remedial legislation agreed on is not enacted, the complaining government may enact a comparable amendment to its AD/CVD law or terminate the Agreement upon 60 days' written notice.

PART SEVEN: OTHER PROVISIONS

Chapter Twenty: Other Provisions

Provisions which did not fall logically into other chapters appear here. Included are some particular sectoral issues, as well as some general rules affecting the overall Agreement.

Softwood Lumber

The 1986 Memorandum of Understanding (MOU) on Softwood Lumber is grandfathered. The MOU resolved a countervailing duty case brought by the U.S. softwood lumber industry against Canada's lumber exports. Canada agreed to apply a 15 percent export tax on lumber until such time as the provincial stumpage pricing practices were altered.

Plywood

Canada will decide by March 15, 1988 whether to allow the use of U.S. standard C-D grade plywood in housing it finances. If so, U.S. tariff concessions on plywood and particleboard will begin to be implemented on January 1, 1989. If not, a panel of experts will examine the issue and the governments will consult on how to implement the tariff concessions.

Culture

It has been the policy of Canadian governments to promote cultural activities with the goal of fostering Canada's unique cultural heritage. Some of these measures have had trade effects and an adverse impact on U.S. commercial interests.

The U.S. recognizes the importance to Canada of maintaining its cultural identity. At the same time, however, the U.S. wants to ensure that Canadian cultural policies do not constitute a discriminatory and unnecessary barrier to U.S. trade.

Certain "cultural industries" are exempt from the provisions of the FTA. This allows either country to maintain programs that would otherwise be inconsistent with the Agreement. However, the other country retains the right to retaliate with measures of equivalent commercial effect whenever the cultural exemption hurts that country's commercial interests. The right to take countermeasures is not subject to prior invocation of the Agreement's dispute settlement provisions.

Cultural activities exempted from the FTA include the publication, sale, distribution or exhibition of: books, magazines, and newspapers; film and video recordings; audio or video music recordings; and also radio, television and cable dissemination. Of course, tariffs will be eliminated on all these products.

In addition, Canada has agreed to alter a number of practices that discriminate against U.S. businesses. These new steps include elimination of a print-in-Canada requirement for tax benefits and increased copyright protection for the retransmission of commercial broadcasts.

Other Provisions

The two governments agreed that if either takes trade actions to counteract a serious deterioration in its balance-of-payments position, it will do so consistent with its rights and obligations under the GATT, the International Monetary Fund and the Organization for Economic Cooperation and Development.

The precedence of the 1980 tax convention is stated because the Agreement takes precedence over other agreements unless specified.

The standard GATT national security disclaimer is adopted, except for energy and government procurement. For energy, there is a more limited national security provision specified in the energy chapter. For government procurement, the GATT Government Procurement Code provision is adopted.

The establishment of government monopolies is expressly permitted, but it must be done in a way that does not violate the principles of the Agreement.

The Agreement states that if measures not expressly prohibited are deemed nevertheless to nullify or impair benefits reasonably expected under the Agreement, dispute settlement can be invoked.

PART EIGHT: FINAL PROVISIONS

Chapter Twenty-One: Final Provisions

The two governments agree to exchange necessary statistical information and to publish information to facilitate implementation of the Agreement. The Agreement will become effective January 1, 1989. It can be amended by mutual agreement and can be terminated by either party with six months' notice.

STATEMENT OF CECIL R. OWENS

PRESIDENT, PACIFIC TEXAS PIPELINE CO.

REGARDING UNITED STATES - CANADA FREE TRADE AGREEMENT

March 23, 1988

Mr. Chairman and Members of the Committee, mindful that the Congress will soon be considering legislation to implement the United States-Canada Free Trade Agreement, I appreciate the opportunity to express the views of Pacific Texas Pipeline Co. on the provisions of the Agreement regarding exportation of Alaskan North Slope crude oil.

Before addressing the provisions of particular concern to my company, I wish to state that the goals of the Free Trade Agreement are altogether laudable. By dismantling the barriers which now inhibit trade between the world's largest trading partners, the Agreement holds great potential benefits for Americans and Canadians alike. Nonetheless, any agreement of the scope of the Free Trade Agreement will inevitably raise legitimate questions as to where our true national interest lies. One such issue, in my opinion, involves the Agreement's unprecedented provision permitting the export to Canada of up to 50,000 barrels per day of crude oil produced on the Alaskan North Slope and transported over the Trans-Alaskan Pipeline ("TAPS").

As your Committee considers this provision, the United States is importing roughly 40% of its crude oil requirements, much of it from insecure foreign sources. Canada, on the other hand, is a net exporter of crude oil. Canada exports about 675,000 barrels of crude oil per day.

Section 7(d) of the Export Administration Act, which generally limits exports of crude oil carried over TAPS, provides preferential treatment of Canada. Such exports to Canada are permitted if (1) there is a swap of a comparable amount of Canadian crude which results in lower acquisition costs for U.S. refiners, and (2) 75% of such cost savings are passed on to United States consumers. The provisions of the relevant annex to the Free Trade Agreement, however, impose no such limitations on the exportation of ANS crude oil. As of this date, I have heard no justification for the "gutting" of existing law in this regard.

Our company is in the process of constructing a major pipeline from Los Angeles, California to Midland, Texas which will have interconnections to Gulf Coast, Eastern and Midwest destinations. Once in operation, the pipeline will permit delivery of Alaskan crude oil to Gulf Coast refineries and points further east at prices considerably lower than presently necessitated by the cost of shipping this oil across Panama by pipeline or tanker through the Canal.

In our view, paragraph 3 of Annex 902.5 to the Agreement undercuts a basic tenet incorporated in United States law that Alaskan North Slope oil production should be used in the United States and not diverted to other countries unless the President finds and the Congress concurs that such diversion is in the national interest. This policy, grounded on both national security and economic considerations, is clearly furthered by our pipeline, which will provide Alaskan crude oil to Gulf Coast and other refineries without passage through the politically unstable Panama region and will do so at a transportation cost savings to shippers.

While 50,000 barrels per day may not by itself represent a high percentage of current Alaskan crude oil production, export of even this amount will set an unfortunate precedent in direct conflict with existing United States law and policy unless (1) compelling justification can be shown for such diversion and (2) appropriate conditions are placed on such export. If the existing consumer benefit requirement in section 7(d) is to be abandoned with respect to this oil, one essential condition should be a requirement of at least some quantifiable benefit to U.S. consumers.

As I have stated, our company opposes any relaxation of existing law governing exports of Alaskan North Slope crude oil to Canada unless there is compelling justification for doing so. We have been advised that the 50,000 barrel per day export authorization contained in the Free Trade Agreement was prompted by a request from Canada towards the end of negotiations and is intended to meet the particular needs of certain oil refineries located in British Columbia. While we have yet to be convinced that these refiners can even use 50,000 barrels of ANS crude, much less need it, we will defer to others in making that determination. We are, however, troubled by several major points:

o We are aware that the possible export of 200,000 barrels per day was contemplated early in negotiations between Canada and the U.S. This is certainly far greater than the aforementioned refineries can handle and raises questions as to the true purpose and validity of the 50,000 barrels per day export authority that was finally agreed upon.

o Currently the U.S. imports about 40% of its crude oil and this level is forecast to go higher. Therefore, relinquishing any part of our domestic supply seems questionable at best, particularly to a substantial oil exporter.

o Currently about 25% of our nation's domestic oil supply is from Alaska's North Slope. About one-half of this is consumed on the West Coast and the remaining one-half is transported to Gulf Coast, Midwest and Eastern refineries. Any effort to remove this oil to Canada or any other foreign nation will simply mean more imported oil to replace the loss.

Nonetheless, if our government determines these British Columbia refineries to have genuine need and that supplying them with 50,000 barrels per day will not adversely affect national security or U.S. consumers, we will not oppose carefully drawn legislative authority to advance that limited purpose but, we submit, it is vital that the legislation and the legislative history make clear that by so authorizing such exports, Congress is not intending to open the door generally on exports to Canada or any other country of Alaskan North Slope crude oil.

For this reason, we believe it is imperative that the law and legislative history, at a minimum, be clear on the following points:

1. That the legislation implementing the FTA provision is a one-time limited exception to the provisions of section 7(d) of the Export Administration Act and is not intended by the Congress to presage a more general relaxation of the statute.

2. That the crude oil to be exported may only be used to meet the needs of the specific refineries in British Columbia which have inadequate access to Canadian domestic production and that such oil may not be used for any other purpose or be reexported.

3. That the maximum amount of ANS crude oil that can be exported under any U.S. law without meeting the conditions now imposed by section 7(d) is 50,000 barrels per day. (As you know, there is authority in the pending trade legislation which, if enacted, would permit export of ANS crude to Canada. Since the proferred justification for that provision is, again, the needs of the British Columbia refineries, there should be no more than 50,000 barrels maximum which may be exported.)

Mr. Chairman, I am grateful for the opportunity to have our company's views on this important subject considered by the Committee. We would be pleased to respond to any requests that Members of the Committee or its staff may have for additional information now or in the future regarding this subject.

THE PROCTER & GAMBLE COMPANY

WOLFGANG C. BERNDT
GROUP VICE PRESIDENT

1 PROCTER & GAMBLE PLAZA
CINCINNATI, OHIO 45202-3315

March 15, 1988

The Honorable Lloyd Bentsen
Chairman, Committee on Finance
United States Senate
205 Dirksen Building
Washington, DC 20510

Dear Mr. Chairman:

The Procter & Gamble Company urges ratification of the U.S.-Canada Free Trade Agreement for the following reasons: -

1. The Agreement will permit us to organize our business on a North American basis, rather than for separate and less efficient markets. We anticipate more specialized production serving less dispersed geographic areas that are unencumbered by existing artificial and uneconomic restraints. We expect to continue to use our plants in both the U.S. and Canada, but to use them more efficiently and effectively thereby freeing resources for new investments in this expanded market.
2. Consumers in both countries will benefit from improvements in their incomes and in the variety and quality of goods available to them. This is important to Procter & Gamble and to our 50,000 North American employees because our future depends upon the well-being of our consumers and our ability to serve their needs.
3. Both countries must remain globally competitive. Meeting this challenge is not just important to both countries' living standards, it is also important to their national securities and their world leadership abilities. The economic strength deriving from the Agreement is important to meeting this objective.
4. We do not believe there are any overriding aggregate costs or disadvantages to the Agreement. While there will be adjustments required in both countries, the staging of duty elimination and of reduced Canadian foreign investment review, for example, should minimize their impact.
5. While the Agreement may not be perfect, it does provide opportunities for future negotiated improvements - as does the Uruguay Round (which would receive added stimulus from its ratification). The Agreement should be judged on what it accomplishes, rather than on what was left undone. Rejection, or unilateral attempts at amendment during implementation would likely be counterproductive. Failure to ratify would not leave a status quo, but rather a difficult situation with Canada and a dubious future for the Uruguay Round.

Several times in the past century the United States and Canada have negotiated similar agreements - only to see them fail in the ratification process in one country or the other. Procter & Gamble hopes that this time the effort will succeed.

We appreciate the opportunity to comment and your interest in our views.

Very sincerely,

W. C. BERNDT

WCB:SS

United States Senate
WASHINGTON, D.C. 20510

March 1, 1988

The Honorable Ronald Reagan
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

We are writing to express our concerns regarding the U.S.-Canada trade agreement, and to urge the Administration to work closely with Congress to draft implementing legislation that will eliminate some of the trade distortions and competitive problems created by or ignored in the agreement. Our goal is to move the U.S. and Canada toward a free and open market and establish a "level playing field" for businesses on both sides of the border.

The Administration has called the U.S.-Canada trade agreement a historic accomplishment. We are told that many features of this agreement could serve as a model for future multilateral and bilateral trade agreements. The weaknesses and strengths of this agreement could be greatly magnified as its provisions are copied in other trade agreements. For that reason, we cannot afford to make mistakes or overlook shortcomings. We must work to perfect and refine the agreement, the implementing language, and the policies we pursue as a result of the agreement.

In our view, there is much work to be done. As currently drafted, we have several serious reservations about the U.S.-Canada trade agreement.

We are concerned about the apparent lack of judicial review for countervailing and anti-dumping duty cases. Replacing Article III judges with political appointees raises serious constitutional questions that we would like to explore further. In addition, we request clarification of the Canadian federal government's constitutional power to enforce provincial compliance with the agreement. We would like to discuss U.S. options in the event a province violates the agreement.

The agreement does not provide for free trade between the United States and Canada. Progress is made toward opening markets in some sectors, but a number of Canadian trade barriers and subsidy programs that place U.S. industries at a disadvantage are ignored. By failing to eliminate certain barriers the agreement may actually institutionalize these Canadian trade barriers and impair U.S. remedies to counter them. We are particularly concerned that the U.S. has tied its hands with regard to countering subsidies with U.S. countervailing duty law while obtaining no assurances from Canada that it will discontinue its present subsidy programs or refrain from initiating new ones in the future.

Perhaps it is too late to address this problem completely, but steps can be taken to minimize these problems and build momentum for further market openings. The implementing language for the agreement must be drafted so as to put pressure on both the U.S. and Canada to eliminate subsidy programs and trade barriers that are not covered by the agreement. Without such measures, the agreement could actually become a barrier to truly free trade, and U.S. industries--like non-ferrous metal production, plywood manufacturing, coal mining, and wheat production--would be put at an unfair competitive disadvantage.

Finally, we are concerned that the agreement inadequately addresses the complex trade issues affecting several key U.S. industries, including natural gas production, fisheries, auto parts manufacturing, and uranium mining. Thorough consultation with Congress during the negotiations could have eliminated these problems entirely. But there are still measures that can be taken to alleviate these problems without endangering the agreement.

In the spirit of cooperation, we have worked closely with many of the industries with concerns about the agreement--including non-ferrous metal production, plywood manufacturing, wheat production, uranium mining, natural gas production, and coal mining--to address their problems without changing or otherwise undermining the agreement. They range from careful drafting of implementing legislation for the agreement to actions the U.S. government can take unilaterally to level the playing field. For example, we have developed implementing language that would tie the elimination of Canadian subsidies for non-ferrous metal production to the elimination of U.S. tariffs on non-ferrous metal imports. We understand that some of our proposals may require some refinement, but they certainly illustrate that constructive solutions are still possible.

Submitting the U.S.-Canadian trade agreement to Congress under the fast-track process without working with Congress to solve these problems endangers not only this agreement, but the entire fast-track process. It would be a serious mistake to leave Members with concerns about the agreement with no alternative short of amending the fast-track process or opposing the agreement outright.

We look forward to working with the Administration to address these concerns. We would like to arrange a meeting with Administration officials to discuss the issues that we have raised at the earliest possible date.

Sincerely,

Pete V. Domenici

Max Baucus

Jeff Bingaman

Orrin Hatch

cc: Secretary Baker
Ambassador Yeutter

StorageTek

Thank you for providing this opportunity for Storage Technology Corp. (StorageTek) to submit testimony on the U.S.-Canada Free Trade Agreement.

The FTA appears to be a good beginning in opening up trade between the two countries; however, in its present form, it exempts procurement by the Canadian Provincial Governments and the U.S. States. We believe in the spirit of a free trade agreement that addresses all areas and does not sidestep the issue of procurement with U.S. states or Canadian provinces.

StorageTek designs, manufactures, markets, provides supporting software and services information storage and retrieval subsystems for high-performance computers. Headquartered in Louisville, Colorado, StorageTek is one of four worldwide manufacturers in the high-end information storage and retrieval industry.

We have approximately 8,800 people employed at headquarters and 130 sales and service locations worldwide, including our Canadian subsidiary - StorageTek Canada, Inc. The company has manufacturing facilities in Colorado, Florida and Puerto Rico.

Our company has a specific problem with the government procurement practices in the Province of Quebec. In order to be considered an economic partner, i.e., a vendor to the government, Quebec requires a reinvestment of 70% of the revenue we obtain in that Province. The economic balance is based on a formula of their design which has no statutory or regulatory basis. The whole concept of an offset is a hidden tariff of substantial proportion.

In our worldwide activities, the only other offset program is in Australia which requires 30% reinvestment of the revenue received from federal business only. No such offsets are required by England, France, Germany, Italy and any other country in which we do business in the free world. In the past we have reinvested approximately 25-30% of what we have received from revenues.

It is our opinion that a Free Trade Agreement that addresses federal procurement and procurement in the private sector while sidestepping the procurement issues in local governments (state/provincial) is by definition allowing substantial hidden tariffs to exist. A free trade agreement that addresses only selected sectors is by definition an incomplete free trade agreement. Therefore, we would like the negotiators from the U.S. Trade Representative's office to widen the scope of this agreement to include regional and local public procurement as well.

In summation, we believe that many other companies in both the United States and Canada are negatively affected and may not be aware of this oversight in the agreement while certainly supporting the concept of free trade.

United Fresh Fruit and
Vegetable Association

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March 16, 1988

The Honorable Lloyd Bentsen
Chairman
Finance Committee
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The United Fresh Fruit and Vegetable Association urges you to support the U.S./Canada Free Trade Agreement as signed by President Reagan and Prime Minister Mulroney in January.

The agreement is an important first step to develop free trade between our two nations. We note, however, that the agreement does not address all issues impeding free trade of fresh produce. The most important of these is the lack of structure and direction in the agreement for harmonization of phytosanitary, food safety and labeling regulations. United urges that the implementing legislation for the agreement contain mandates to the U.S. Environmental Protection Agency, the U.S. Food and Drug Administration and the Animal and Plant Health Inspection Service to cooperate fully with their Canadian counterparts on addressing phytosanitary, food safety and labeling regulations in a timely manner.

The second major issue of concern is the continuation of Canadian domestic subsidies under the Agricultural Stabilization Act. Realizing that domestic subsidies may best be addressed in multilateral negotiations, United hopes that the U.S. government will not fail to address in the future this subsidy which provides Canadian horticultural producers an unfair advantage over U.S. producers.

The benefits of the agreement, however, outweigh these two concerns. The elimination of tariffs over ten years will bring the Canadian and U.S. fresh fruit and vegetable producers on a more even playing field. The elimination of the Canadian fast-track surtax mechanism in favor of the snap-back duty provision available to both countries will provide an important tool to rectify unfair disruptions in the marketplace.

The United Fresh Fruit and Vegetable Association supports the U.S./Canada Free Trade Agreement and hopes that in the future our two countries can continue to build on it. United urges you to lend your approval by supporting a quick ratification.

Best wishes,

Sharon E Bomer

Sharon E. Bomer
Director, Government Relations

STATEMENT
on
THE CANADA-U.S. FREE TRADE AGREEMENT
for submission to the
SENATE COMMITTEE ON FINANCE
by
William T. Archey*
March 28, 1988

The U.S. Chamber of Commerce strongly supports the Free Trade Agreement. Because the Chamber's membership of nearly 180,000 businesses and organizations is so extensive and diverse, the decision to support the agreement was not made lightly. In fact, the Chamber's Board of Directors did not endorse the agreement until its meeting on February 10. The Board considered not only the views of the Chamber's Canada-U.S. Relations Committee but also those of its other committees covering such areas as international trade and investment, small business, natural resources, and agriculture.

In supporting the agreement, the Chamber recognized that the pact failed to deal with all outstanding disputes between the two countries and that it would entail serious adjustment problems for some industries and individual producers. However, the Chamber believes that the agreement should be implemented because of the long-term benefits that it would bring to the economies of Canada and the U.S. as a whole.

This statement may be summarized as follows:

- o The Chamber has a long-standing interest in Canada-U.S. Relations, going back to 1933 when it organized a joint committee with the Canadian Chamber of Commerce. Chamber decisions on Canada-U.S. issues reflect not only the endorsement of its domestic membership but also a consensus with the national Canadian organization.
- o A successful bilateral agreement with Canada will restore momentum to multilateral efforts to liberalize trade and investment.
- o The trade agreement will provide U.S. exporters, particularly in the small business sector, with lucrative new opportunities.
- o Restrictions on U.S. investment in Canada will be drastically curtailed; thus, many new opportunities will open to U.S. industries.
- o The Chamber is working actively with its members, particularly its federation of state and local chambers, to convey their support for the agreement to Congress.

Background of the Canada-U.S. Relations Committee

The Canada-U.S. Relations Committee was organized in 1933 as a joint committee of the U.S. and Canadian Chambers of Commerce. It was organized in response to the Reciprocal Trade Agreements Act in an effort to pave the way for a bilateral reduction of the high Smoot-Hawley tariffs then in force.

Over the years, it has had an impact on a great variety of issues bearing on economic relations between the two countries -- from acid rain to the organization of the International Joint Commission.

The Committee consists of two national sections, each operating under the aegis of its national chamber. It operates on a consensus basis -- before taking action on an issue, it must have the agreement of both national sections. This means that recommendations and policy positions of the Committee embody the views of representative and responsible groups in both countries. Accordingly, this consensus approach means that the Committee's support for the agreement reflects the views not only of American business but also of Canadian business. The Canadian Chamber speaks for individual corporations and for chambers of commerce and trade associations in all regions and sectors of Canada.

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*Vice President, International Division

Further, the long history of the Committee reinforces the soundness of its position on the agreement: it is not an ad hoc arrangement, but one that has been involved intimately in the pros and cons of numerous bilateral issues since well before the Second World War.

The approach of the Chamber's Committee to the proposed agreement, after declaring support for its goals, was to try to develop answers to unresolved aspects of the proposal. Thus, research studies were commissioned to determine the precise benefits for both countries that could be expected. Several studies focused on the precise form of a workable dispute settlement mechanism. The Committee also surveyed the positions on the proposal of corporations, trade associations, state and local government agencies, and state and local chambers of commerce.

Copies of the studies and reports have been distributed widely in Canada and the U.S., and the Chamber's Committee is currently taking a special poll of state and local chambers. Many of those organizations will contact their Congressional representatives directly, while the Committee will assemble the responses into a simple report for the attention of your Committee.

Positive Direction for Trade Policy

The road to free trade is a difficult one, and the ultimate goal of a world of free trade is probably something that will never be achieved. The U.S. must keep working toward that goal, however, as the alternative is to encourage the growth of trade restrictions and other forms of protection, which are the antithesis of economic growth and stability. As Phillip H. Trezise of the Brookings Institution observed, in commenting upon the increased integration of the Canadian and U.S. economies that would result from the agreement:

> To believe that this interdependence will make one or the other or both of the nations poorer requires the parallel belief that a U.S.-Canadian border studded with obstacles to the movement of goods, services, and capital must contribute positively to national welfare in both countries.*

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* The Brookings Review, "Free Trade With Canada," Philip H. Trezise, Winter, 1988.

In recent years, efforts to achieve trade liberalization through traditional multilateral channels, most notably the General Agreement on Tariffs and Trade (GATT), have lost momentum. Due to a combination of factors, including sluggish demand in industrialized economies and the debt burden of developing countries, the emphasis in national trade policies has leaned to import restrictions and subsidized export activity. The discipline necessary for firm commitments to the principles of the Uruguay Round of GATT negotiations has been lacking.

The Chamber endorses strongly the view that a successful agreement with Canada would restore impetus to trade liberalization on a multilateral basis, not only in the GATT but also in all the other complementary free trade regimes. It would encourage the initiation of similar bilateral U.S. agreements with other countries. Above all, it would provide future administrations with the momentum to keep trade policy on a positive and open international course.

An eloquent testimonial to the worldwide benefits of a successful agreement between Canada and the U.S. was recently expressed in a letter to the Chamber from the Director-General of the Confederation of British Industries. It stated in part that:

> . . . we note in particular that the agreement has been concluded within the framework of GATT Article 24 and welcome the willingness of the signatories to address the new issues such as services, investment and agriculture, which are also under consideration in the current GATT round . . . we believe it will be a step forward in securing the principles of free and fairer trade to which international business subscribes.

Trade and Investment Opportunities

Ten years ago, when economic nationalism was at its zenith in Canada, it would have been inconceivable to have predicted the elimination of Canada's trade and investment barriers to the degree provided in the agreement. For American exporters, the tariff concessions alone would have justified the agreement. And, as is widely acknowledged, the provisions for investment, services, energy, and other specific sectors make the pact the most comprehensive bilateral agreement ever negotiated.

As a general rule, larger corporations exporting to Canada are well aware of the opportunities created by the agreement. In mid-1986 the Chamber surveyed a group of 800 U.S. corporations for their views on the proposed agreement. The response was overwhelmingly positive in terms of expected efficiencies and sales opportunities. Virtually all of the companies surveyed were already active in Canada, so they were well qualified to judge the effects of a free trade agreement. Among small- to medium-size firms there is generally less awareness of the opportunities provided by the agreement. Nevertheless, the opportunities are considerable, and the Chamber is working through its network of affiliated local and state chambers to convey the message to interested companies.

Major impediments to small business exports to Canada have been, in addition to high tariffs, Canadian customs and immigration procedures and the plethora of rules and regulations that characterizes the Canadian business environment. It is much more difficult for smaller firms to persevere in the face of those difficulties, lacking the expertise and general resources available to larger firms. Many small business firms, therefore, have been discouraged in their efforts to penetrate the Canadian market. Accordingly, a significant consequence of the agreement will be to stimulate exports of these firms.

They will also have a special inducement through the Canadian decision to lower the threshold on federal government procurement to $25,000. This is estimated to open up $500 million annually to U.S. firms. Also, small competitive U.S. exporters will find that they have a special advantage over foreign exporters to Canada who still have to pay the high Canadian tariff.

Conclusion

The Chamber believes that the proposed agreement would provide very substantial benefits to both countries in terms of increased trade and investment and the implications of improved competitiveness. Further, the commitments on issues like services trade and intellectual property protection would improve the chances for similar breakthroughs in the GATT and other arrangements.

The Chamber is sensitive to the adjustment problems that the agreement would entail for some firms and industries. Clearly, while the U.S. can anticipate increased exports to Canada, it can also expect more imports from Canada. Still, both countries must remember that the agreement was never intended to remove every friction between them. It represents a negotiated process, and the best way to judge it is to ask if it is the best deal both could get, not if it is the best possible deal.

Nevertheless, sectors of the U.S. economy will face new competition as a consequence of the agreement. In some cases, competitive advantages will reflect differences in government support systems. It is particularly important that both governments make firm commitments to continue to work for the resolution of such differences, and Congress could insist upon this when drafting the legislative language.

The Chamber believes that the various outstanding disputes between Canada and the U.S., as well as those triggered by the agreement, should be placed on a special agenda where they can be considered in a cohesive fashion. It is essential that affected industries be provided with the assurance that their concerns are being addressed with urgency. They must be satisfied that the agreement marks not the end, but a new beginning in bilateral relations.

In closing, the Chamber reiterates that its support for a comprehensive bilateral trade agreement has evolved through a long process of consultation with business and government at all levels and in all parts of Canada and the U.S. It is convinced that the long-term benefits will far outweigh the cost of adjustment to new competition that may be necessary on both sides of the border.

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